

Pensioner

Date of Filing :-

Token No.

**IN THE HIGH COURT OF JUDICATURE
AT PATNA**

NATURE OF CASE C.W.J.C No 1612 2022

Bihar Administrative Service Association

**PETITIONER/S
APPELLANT/S**

Versus

The State of Bihar

**OPPOSITE PARTY/S
RESPONDENT/S**

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

CWJC No. 1612 /2022

Bihar Administrative Service Association through its General Secretary.

.....Petitioner

Versus

The Union of India and othersRespondents

Subject:- Govt. Service-Others (Gazetted)

INDEX

<u>Sl No.</u>	<u>Particulars</u>	<u>Page nos.</u>
1.	Synopsis	
2.	In the matter of an application under Article 226 of the Constitution of India 1-17
3.	Annexure-1 A copy of IAS (Recruitment) Rules 1954	... 18.. 25
4.	Annexure-2 A copy of IAS (Appointment by Selection) Regulations, 1997...	26-28
5.	Annexure-3 A copy of the aforesaid Resolution vide Letter No. 2178, dt. 21.04.2001 29-30
6.	Annexure-4 A copy of said order dt. 22.12.2009 in O.A. No. 199 of 2009 by CAT, Patna Bench 31-57
7.	Annexure-5 A copy of the aforesaid order dt. 24.02.2012 passed in CWJC No. 10616 of 2010 58-64
8.	Annexure-6 A copy of said proceedings dt. 07.09.2011 of the said Committee 65-68
9.	Annexure-7 A copy of the aforesaid Resolution contained in Memo No. 4900 dt. 02.04.2012 issued by GAD, Govt. of Bihar 69-70
10.	Annexure-8 A copy of the aforesaid Resolution dt. 17.01.2009 of the Finance Department 71-73
11.	Annexure-9 Series Copy of the aforesaid Representations dt. 21.01.2020 and dt. 10.04.2020 by the Petitioner Association 74-87
12.	Vakalatnama	

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

CWJC No. ...16/2.../2022

Bihar Administrative Service Association through its General Secretary.

.....Petitioner

Versus

The Union of India and others

.....Respondents

Synopsis of the case

Relief Prayed for:-

For issuance of appropriate writ or writs in the nature of certiorari for quashing the Circular No. 4900, dated 02.04.2012 issued by the General Administration Department, Bihar whereby the service and posts under Bihar Forest Service, Bihar Police Service and Non - State Administrative Service other State Services in unrevised pay scale of Rs. 8,000-13,500/- (Revised Pay Scale of Rs. 15,600-39,100/- +Grade Pay- Rs. 5,400/-) and on higher pay scale were declared equivalent to the post of Dy. Collector in the State Administrative Service for the purpose of Section 4 of Indian Administrative Service (Selection and Appointment) Regulations, 1997 after obtaining an experience of at least 8 years in the concerned declared cadre to come under the consideration zone of selection to Indian Administrative Service under aforesaid Regulations, 1997, as this Circular is against the letter and spirit of original provisions of said rules / regulations, 1997 and is prejudicial to the State Civil Service (SCS/BAS) Cadre occupants and

(II)

discriminatory, arbitrary and biased violating Article 14 and 16 of the Constitution of India.

For issuance of appropriate writ or writs in the nature of Mandamus commanding the State of Bihar and Respondents as a whole herein to discontinue promotion of non –SCS officer into the cadre of Indian Administrative Service, because the said practice prevalent in the State of Bihar is discriminatory and biased where the State Administrative Service Officers of senior batches are yet to get promotion to IAS while those junior to them in Non –SCS, have made it to the IAS taking advantage of the impugned circular dt. 02.04.2012 and moreover, this practice has been discontinued in other States, i.e., Uttar Pradesh, Haryana, and other States of India apart from the fact that promotion to Indian Police Service by selection of Non –State Police Service Officers have almost been discontinued in India.

For that any other relief or reliefs as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Relevant date with brief facts:-

:- There is All India Services Act, 1951 under which separate Recruitment Rules have been framed for the IAS/IPS/IFS and wherein in pursuance of these Rules, IAS (Recruitment) Rules, 1954 and IAS (Appointment by Selection) Regulations, 1997 have been framed by the Government of India.. **Annexure-1 and 2**

21/4/2001:- The State of Bihar through the then Department of Personnel and Administrative Reforms a Resolution vide Letter No. 2178, dt. 21.04.2001 was issued wherein the Regulations 1997 as well as the Judgment in T. Sham Bhatt was taken into consideration for the purpose of declaring posts under Non-SCS equivalent to Deputy

Collector and accordingly the posts under Non-SCS except those from Bihar Forest Service, Bihar Police Service and Bihar Administrative Service having 10,000-15,200 pay scale or higher scale looking into their duties and responsibilities were declared equivalent to Deputy Collector. **Annexure-3**

22.12.2009:- Central Administrative Tribunal, Patna Bench vide its order dt. 22 December 2009 in O.A. No. 199/2009 rejected the contentions of the Applicants therein and upheld validity of the Resolution dt. 21.04.2000 with reference to the Judgment in case of T. Sham Bhatt of Hon'ble Supreme Court and observing under Para 16 that merely being placed in the same scale is of no avail in itself and since the gamut of work experience gathered by the officers of the Non State Civil Services is entirely different, and they deal with different aspects of governance of the State Government, it cannot be said that they have also had a similar grooming for becoming eligible for selection to IAS. **Annexure-4**

24.2.2012:- Order dt. 22.12.2009 in O.A. No. 199/2009 was challenged before the Hon'ble High Court, Patna in CWJC No. 10616 of 2010 which was finally heard on 24.02.2012 and the Resolution/Notification dt. 21.04.2001 was quashed along with the judgment of the CAT keeping in view that the judgment of CAT, Ranchi and of Jharkhand High Court in similar circumstances, was based on analysis of pay scale as well as on basis of duties and responsibilities of the post and that the Patna High Court did not find any error therein and further that State of Bihar was also party in the said proceedings, and had accepted the orders, and thus, the State of Bihar was directed to reconsider the matter of equivalence

in the light of all the relevant materials and as per law within three months and it was directed that the time limit be implemented in letter and spirit so that the cause of petitioners may be considered.

Annexure-5

:- During pendency of writ petition vide CWJC No. 10616 of 2010, a Committee was constituted by Resolution No. -8123, dt. 15.07.2011 for reconsideration on the issue of equivalence of posts in Non-SCS/SAS to that of Deputy Collector in SCS/SAS and wherein the meeting dt. 07.09.2011, one of the members of the Committee Sri K.C. Saha had contended that although officers of State Administrative Service become eligible for consideration for promotion to IAS Cadre in accordance with Rules/ Regulations, yet practically, they take 20-21 years to come into consideration zone because the List is prepared on basis of seniority. It was opined with regard to Non- SCS/Non SCS that if they are declared equivalent to the post of Deputy Collector at the entry level of service, then they would become eligible to consideration for promotion to IAS cadre on completion of 9-10 years and they would get posted as District Magistrate having Deputy Collector or Deputy Development Commissioner of BAS, who would be much senior to them and it shall have adverse impact on the efficiency of such BAS officers and would bring inequality as well as distortion in the system. **Annexure-6.**

2.4.2012:- That in most arbitrary manner, and ignoring the discussions of the Committee to reconsider the equivalence of posts in Non SCS to Deputy Collector so constituted by Resolution dt. 15.07.2011 as annexed above, the General Administration Department, Government of Bihar, Patna

through its Resolution contained in the impugned Memo No. 4900, dt. 02.04.2012 declared that for the purposes of Regulation 4 of IAS (Appointment by Selection) Regulations, 1997, the posts under Non-SCS other than Bihar Forest Service, Bihar Police Service and State Administrative Service, having unrevised pay scale of 8000-13500 and posts of higher pay scale than this, would be considered equivalent to that of Deputy Collector in State Civil Services. **Annexure-7.**

: That it is stated that the unrevised Pay Scale of 8000-13500 for the Non-SCS is entry level scale which was declared by the State Government through a Resolution dt. 17.01.2009 of the Finance Department and was published in Bihar Gazette dt. 20.01.2009 and thus, the Non-SCS officers got the opportunity to be considered for appointment by selection to IAS cadre on completion of 8 years of initial service. **Annexure-8.**

21.1.2020 and 10.4.2020 :- Petitioner Association has raised the issues before the General Administration Department, Government of Bihar through Representation contained in Memo No. 10, dt. 21.01.2020 as well as Memo No. 46, dt. 10.04.2020 where all the relevant issues regarding Statute, judgments of Hon'ble Court and the interpretation given therein as well as the availability of SCS officers for promotion and curtailment of their rights due to this unjust impugned circular, have been narrated, however, till date, no action has been taken to resolve this issue and to undo the injustice inflicted to the members of petitioner Association. **Annexure-9 Series.**

Hence the necessity of the present writ petition.

Filed through:

Abhay Shanker Singh 20/01/2022
Abhay Shanker Singh, Adv.

AOR No. 01994

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

CWJC No. *1612* /2022

In the matter of an application under
Article 226 of the Constitution of India

AND

In the matter of :-

Bihar Administrative Service Association through its General Secretary
Sri Anil Kumar, son of Late Raja Ram Singh, aged about 56 years, Male,
having its office at North of Income Tax Golamber, J.L. Nehru Marg,
Patna – 800001 --- --- Petitioner

Versus

1. Union of India through the Home Secretary, Government of India,
New Delhi
2. Union Public Service Commission through its Secretary, Dhaulpur
House, UPSC Bhawan, New Delhi
3. The Chairman, UPSC, Dhaulpur House, UPSC Bhawan, New Delhi
4. State of Bihar through the Chief Secretary, Govt. of Bihar, Patna

5. The Principal Secretary, General Administration Department,
Government of Bihar, Patna Respondents

To

Hon'ble Mr. Justice Sanjay Karol, the Chief Justice of the High Court of
Judicature at Patna and his companion Justices at the said Court

Humble application on behalf of
the aforesaid petitioner

Most Respectfully Sheweth:

1. That the petitioner Association beseeches indulgence of this Hon'ble Court with a prayer
 - (a) For issuance of appropriate writ or writs in the nature of certiorari for quashing the Circular No. 4900, dated 02.04.2012 issued by the General Administration Department, Bihar whereby the service and posts under Bihar Forest Service, Bihar Police Service and Non - State Administrative Service other State Services in unrevised pay scale of Rs. 8,000-13,500/- (Revised Pay Scale of Rs. 15,600-39,100/- +Grade Pay- Rs. 5,400/-) and on higher pay scale were declared equivalent to the post of Dy. Collector in the State Administrative Service for the purpose of Section 4 of Indian Administrative Service (Appointment by Selection) Regulations, 1997 after obtaining an experience of at least 8 years in the concerned declared cadre to come under the consideration zone of selection to Indian Administrative Service under aforesaid Regulations, 1997, as this Circular is against the letter and spirit of original provisions of said rules / regulations, 1997 and is prejudicial to the State Civil Service (SCS/BAS) Cadre occupants and

discriminatory, arbitrary and biased violating Article 14 and 16 of the Constitution of India.

- (b) For issuance of appropriate writ or writs in the nature of Mandamus commanding the State of Bihar and Respondents as a whole herein to discontinue promotion of non-SCS officer into the cadre of Indian Administrative Service, because the said practice prevalent in the State of Bihar is discriminatory and biased where the State Administrative Service Officers of senior batches are yet to get promotion to IAS while those junior to them in Non-SCS, have made it to the IAS taking advantage of the impugned circular dt. 02.04.2012 and moreover, this practice has been discontinued in other States, i.e., Uttar Pradesh, Haryana, and other States of India apart from the fact that promotion to Indian Police Service by selection of Non –State Police Service Officers have almost been discontinued in India.
- (c) For that any other relief or reliefs as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
2. That the issues of seminal importance raised in this writ petition are as follows:-
- i. Whether the promotion of Non-State Administrative Service officers by selection to the post and cadre of Indian Administrative Services (IAS) through the impugned notification dt. 02.04.2012; depriving State Civil Service Officers from promotion, is not discriminatory, arbitrary, callous and illegal and needs to be set aside?
 - ii. Whether the impugned circular prescribing only 8 years of service in the Non-SCS as qualifying experience for promotion by selection to the Indian Administrative Service, is unreasonable and

discriminatory vis-à-vis the State Administrative Service Officers who are deprived of such promotion for long time and junior batch officers of Non-SCS get promotion by selection to IAS?

- iii. Whether the impugned circular is in compliance and in conformity with the purpose and intent of IAS (Recruitment) Rule, 1954 as well as IAS (Appointment by Selection) Regulations, 1997 whereby the Rule 4 of Rules 1954 regarding selection of Non-SCS was a temporary provision for promotion by selection of non-SCS to IAS and Regulation 4 of Regulations, 1997 which requires minimum 8 years of continuous service under the State Government in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service?
- iv. Whether the State Government of Bihar is not treating the State Administrative Service Officers discriminately by allowing Non – SCS to get opportunity of appointment by selection to the IAS Cadre while the senior batch officers of SCS are deprived and are still waiting for the opportunity?
- v. Whether the State Government without any mechanism and the procedure under the impugned circular to examine and ascertain special circumstances and Non-SCS officers to be of outstanding merit and ability and further that in public interest, it is necessary to consider such officers for promotion to the cadre of IAS and thus, the impugned circular is illegal, unfair, discriminatory and arbitrary apart from being prejudicial to members of State Administrative Service Officers, who are members of petitioner Association?

3. That it is stated that the Petitioner is an Association of State Administrative Service Officers with Registration No. 663/2003 under Societies Registration Act, 1860 and this writ petition is being filed through its General Secretary in representative capacity because the issue raised herein and the circular impugned affects all the members of the Association and is of common interest of the member officers of Petitioner Association.
4. That it is stated that there is All India Services Act, 1951 under which separate Recruitment Rules have been framed for the IAS/IPS/IFS and wherein in pursuance of these Rules, IAS (Recruitment) Rules, 1954 and IAS (Appointment by Selection) Regulations, 1997 have been framed by the Government of India.

A copy of IAS (Recruitment) Rules, 1954 and IAS (Appointment by Selection) Regulations, 1997 are annexed as Annexure '01' and '02' respectively to this writ petition.

5. That it is stated that the bone of contention had been the provision of Rule 8 (2) of IAS (Recruitment) Rules, 1954 which reads as under,
"The Central Government may, in special circumstances, and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission, from time to time, make recruitment to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil

Service of that State but who holds a gazetted post in a substantive capacity.”

6. That it is stated that in accordance with the aforesaid Rule 8(2) of the IAS (Recruitment) Rules, 1954, induction of non – State Civil Service officers to IAS cadre, was only in special circumstances, and it was not as a matter of right and it was to be available for those having outstanding merit and ability and when the State Government desires to earn mark vacancies to be filled up by these officers.
7. That it is stated that initially there was IAS (Promotion by Selection) Regulations, 1956 framed under Rule 8 (2) quoted above, which later was amended in year 1989. This Amendment 1989 increased the required years of experience for non – SCS and further it created a pooling of Class I and Class II SCS officers for appointment by selection to IAS, which was challenged before Hon’ble Court and finally the Hon’ble Supreme Court of India in the case of *T. Sham Bhatt* versus *Union of India*, (1994) Suppl. (3) 340 (AIR 1994 SCW 3840) had struck down the same. It was observed that the IAS Recruitment Rules did not envisage making eligible for selection to the IAS of non– State Civil Service, if the substantive gazetted posts they held were posts which were lower than that of the posts of Deputy Collectors or Assistant Commissioners in State Civil Service.
8. That it is stated that after the aforesaid order and judgment in **T. Sham Bhatt** by Hon’ble Supreme Court the IAS (Appointment by Selection) Regulations, 1997 was framed wherein Regulation 4 provided as under, “4. State Government to send proposals for consideration of the Committee:- (1) The State Government shall consider the case of a

person not belonging to the State Civil Service but serving in connection with the affairs of the State who

- (i) Is of outstanding merit and ability, and
- (ii) Holds a Gazetted post in a substantive capacity and
- (iii) Has completed not less than 8 years of continuous service under the State Government on the first day of January of the year in which his case is being considered in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service and propose the person for consideration of the Committee. The number of person proposed for consideration of the Committee shall not exceed five times the number of vacancies proposed to be filled during the year.

Provided that the State Government shall not consider the case of a person who has attained the age of 54 years on the first day of January of the year in which the decision is taken to propose the names for the consideration of the Committee.

Provided also that the State Government shall not consider the case of person who having been included in an earlier select list, has not been appointed by the Central Government in accordance with the provisions of Regulation 9 of the these Regulations.

9. That it is stated that in the State of Bihar through the then Department of Personnel and Administrative Reforms a Resolution vide Letter No. 2178, dt. 21.04.2001 was issued wherein the Regulations 1997 as well as the Judgment in T. Sham Bhatt was taken into consideration for the purpose of declaring posts under Non-SCS equivalent to Deputy Collector and accordingly the posts under Non-SCS except those from

Bihar Forest Service, Bihar Police Service and Bihar Administrative Service having 10,000-15,200 pay scale or higher scale looking into their duties and responsibilities were declared equivalent to Deputy Collector. This Circular had been issued after recommendation of the Committee so constituted under Resolution No. 558, dt. 21.01.2000 by the State Government.

A copy of the aforesaid Resolution vide Letter No. 2178, dated 21.04. 2001 is annexed as Annexure-3.

10. That it is stated that the perusal of the Recommendation by Committee constituted under Resolution No. 558, dated 21.01.2000 would show that the provisions of law as well as judgment in T. Sham Bhatt (supra) were taken into consideration and also the posts of different categories with pay scale were deliberated to determine equivalence to the post of Deputy Collector in SCS and the posts in the Pay Scale of 10000-15200 at the relevant time, were recommended for equivalence.
11. That it is stated that the aforesaid Resolution vide Letter No. 2178, dt. 21.04.2001 was challenged in O.A. No. 199/2009 before the Central Administrative Tribunal, Patna Bench by Engineering Service personnel holding post of Assistant Engineer and claimed that an Engineering Graduate and a General Graduate appointed to Gazetted Class II post through Bihar Public Service Commission, are both appointed at the entry level in the same pay scale of Rs. 6,500-10,500, hence denial to Engineering Graduate of the rank of Deputy Collector holding post of Gazetted Class II post equivalent to Deputy Collector was an anomaly and further that under Resolution dated 21.04.2001, an Engineering Graduate would have had to render at least 20 years of service in

achieving pay scale of 10000-15000 and then require another 8 years of experience in that pay scale and thus, they contended that it was not just and proper.

12. That it is stated that the Central Administrative Tribunal, Patna Bench vide its order dt. 22 December 2009 in O.A. No. 199/2009 rejected the contentions of the Applicants therein and upheld validity of the Resolution dt. 21.04.2000 with reference to the Judgment in case of T. Sham Bhatt of Hon'ble Supreme Court and observing under Para 16 that merely being placed in the same scale is of no avail in itself and since the gamut of work experience gathered by the officers of the Non State Civil Services is entirely different, and they deal with different aspects of governance of the State Government, it cannot be said that they have also had a similar grooming for becoming eligible for selection to IAS.

A copy of said order dated 22.12.2009 in O.A. No. 199 of 2009 by CAT, Patna Bench is annexed hereto as Annexure '04' to this writ petition.

13. That it is stated that the aforesaid order dated 22.12.2009 in O.A. No. 199/2009 was challenged before the Hon'ble High Court, Patna in CWJC No. 10616 of 2010 which was finally heard on 24.02.2012 and the Resolution/Notification dated 21.04.2001 was quashed along with the judgment of the CAT keeping in view that the judgment of CAT, Ranchi and of Jharkhand High Court in similar circumstances, was based on analysis of pay scale as well as on basis of duties and responsibilities of the post and that the Patna High Court did not find any error therein and further that State of Bihar was also party in the said proceedings, and had accepted the orders, and thus, the State of Bihar was directed to

reconsider the matter of equivalence in the light of all the relevant materials and as per law within three months and it was directed that the time limit be implemented in letter and spirit so that the cause of petitioners may be considered.

A copy of the aforesaid order dated 24.02.2012 passed in CWJC No. 10616 of 2010 is annexed hereto as Annexure '05' to this writ petition.

14. That it is stated that in the meantime, during pendency of the aforesaid writ petition vide CWJC No. 10616 of 2010, a Committee was constituted by Resolution No. 8123, dt. 15.07.2011 for reconsideration on the issue of equivalence of posts in Non-SCS/SAS to that of Deputy Collector in SCS/SAS and wherein the meeting dated 07.09.2011, one of the members of the Committee Sri K.C. Saha had contended that although officers of State Administrative Service become eligible for consideration for promotion to IAS Cadre in accordance with Rules/Regulations, yet practically, they take 20-21 years to come into consideration zone because the List is prepared on basis of seniority. It was opined with regard to Non-SCS/Non SCS that if they are declared equivalent to the post of Deputy Collector at the entry level of service, then they would become eligible to consideration for promotion to IAS cadre on completion of 9-10 years and they would get posted as District Magistrate having Deputy Collector or Deputy Development Commissioner of Bihar Administrative Service, who would be much senior to them and it shall have adverse impact on the efficiency of such BAS officers and would bring inequality as well as distortion in the system.

A copy of said proceedings dated 07.09.2011 of the said Committee is annexed as Annexure -6.

15. That it is stated that in most arbitrary manner, and ignoring the discussions of the Committee so constituted to reconsider the equivalence of posts in Non SCS to Deputy Collector, the General Administration Department, Government of Bihar, Patna through its Resolution contained in the impugned resolution contained in Memo No. 4900, dt: 02.04.2012 declared that for the purposes of Regulation 4 of IAS (Appointment by Selection) Regulations, 1997, the posts under Non-SCS other than Bihar Forest Service, Bihar Police Service and State Administrative Service, having unrevised pay scale of 8000-13500 and posts of higher pay scale than this, would be considered equivalent to that of Deputy Collector in State Civil Services.

A copy of the aforesaid Resolution contained in Memo No. 4900 dated 02.04.2012 issued by GAD, Govt. of Bihar is annexed as Annexure-7.

16. That it is stated that the unrevised Pay Scale of 8000-13500 for the Non-SCS is entry level scale which was declared by the State Government through a Resolution dated 17.01.2009 of the Finance Department and was published in Bihar Gazette dated 20.01.2009 and thus, the Non-SCS officers got the opportunity to be considered for appointment by selection to IAS cadre on completion of 8 years of initial service.

A copy of the aforesaid Resolution dated 17.01.2009 of the Finance Department is annexed as Annexure-8.

17. That it is stated that the impugned Resolution dated 02.04.2012 as annexed above, is perfunctory and without reference to any opinion or

dissent in the Committee constituted for this purpose by the State Government and also without reference to the statutory criteria of duties and responsibilities of Non SCS posts similar to that of Deputy Collector and is totally in teeth of IAS (Appointment By Selection) Regulation, 1997 as well as the IAS (Recruitment) Rules, 1954.

18. That it is stated that the State Government was directed in CWJC No. 10616/2010 to take a decision in accordance with law while the impugned Resolution was taken in haste, without reference to any deliberation, and the statutory provisions as well as the ground realities causing prejudice and discrimination towards all the member officers of petitioner Association in the State Administrative Service, and as such the same is violating Article 14 and 16 of the Constitution of India.

19. That it is stated that the Hon'ble Supreme Court in the matter of *General Manager, South Central Railway, Secunderabad* versus *A.V.R. Siddhanli*, AIR 1974 SC 1755 has observed that equality of opportunity for purposes of seniority, promotion and like matters of employment is available only for persons who fall substantially, within the same class or unit service. It is submitted that this can be decided only with reference to the nature of duties performed and responsibilities owned apart from the grooming through experience and mere equivalence to Pay Scale shall not entitle all the services of the State to be brought and declared at par with service of Deputy Collector, for the purpose of IAS (Appointment by Selection) Regulations, 1997.

20. That it is submitted that the Hon'ble Supreme Court of India has observed in judicial pronouncement that there must be '*de jure equality*' of persons grouped together apart from there being '*de facto equality*' of

persons grouped together and in the instant case, this principle has been ignored.

21. That it is submitted that once Rule 8 (2) of IAS (Recruitment) Rules 1954 is scrutinized, it would be apparent that it provides that the Central Government may, in special circumstances and on the recommendations of the State Government concerned and in consultation with the Commission and accordance with State Government and Commission, from time to time, may recruit to the service any person of outstanding ability and merit, serving in connection with the affairs of the State who is not a member of the State Civil Service of that State but who hold a gazetted post in a substantive capacity.
22. That it is submitted that Rule 4 (1) (c) Of the IAS (Recruitment) Rules, 1954 emphasized the word 'in special circumstances' and this provision of appointment by selection is not a matter of right which the Statute itself suggests. This method of appointment was resorted in year 1954 under circumstances where sufficient numbers of State Civil Service officers were not available and there arose need of specialized nature of duties with specialized knowledge, however, the situation today has changed and now sufficient number of officers with experience and specialized knowledge in diverse field is available.
23. That it is submitted that the Rules quite clearly show and depict that the said provision was temporary in nature and not permanent and it was to be resorted in special circumstances only, but both the State Government and Central Government have not considered this aspect of the matter and the Non-SCS officers have been taking this as a matter of right.
24. That it is stated that in the case of **P.M. Bays**, while interpreting Rule 4 (1) (c) and Rule 8(2) of the IAS (Recruitment) Rules, 1954, it was

observed that before taking a decision regarding making appointment by selection, the State Government must have evidence on record to

- (i) The existence of Non -SCS officers with eight years of service in a Gazetted post under the State Government, who are of outstanding merit and ability, and
- (ii) The satisfaction of the State Government that, in the public interest, it is necessary to consider such officers for promotion to IAS.

25. That it is submitted that hardly the aforesaid criteria is met in appointment by selection of the Non – SCS officers and the impugned Circular / Resolution of the GAD, is totally in teeth of the statutory provisions as well as various orders and judgments of the Hon'ble Supreme Court including that of T. Sham Bhatt.

26. That it is stated that the Petitioner Association has raised the issues before the General Administration Department, Government of Bihar through Representation contained in Memo No. 10, dt. 21.01.2020 as well as Memo No. 46, dt. 10.04.2020 where all the relevant issues regarding Statute, judgments of Hon'ble Court and the interpretation given therein as well as the availability of SCS officers for promotion and curtailment of their rights due to this unjust impugned circular, have been narrated, however, till date, no action has been taken to resolve this issue and to undo the injustice inflicted to the members of petitioner Association.

A copy of the aforesaid Representations dated 21.01.2020 and dated 10.04.2020 by the Petitioner Association are annexed as Annexure-9 Series.

27. That it is stated and submitted that the impugned circular/resolution does not take into account the fact that due to the same, the senior officers of the Petitioner Association are at times, being placed under subordination of Non-SCS officers who were given appointment by selection and this has demoralizing effect on their morale beside being unjust, unfair and arbitrary.
28. That it is stated that the petitioner association has not preferred any other writ petition challenging the impugned circular and resolution.
29. That it is stated that the petitioner association does not have alternative efficacious remedy than to prefer this writ petition.

It is, therefore, prayed that your lordships be graciously pleased to admit the application issue Rule NISI calling upon the respondents to show cause as to why the reliefs prayed for above may not be granted and upon return of the rule and on such cause as may be shown and after hearing the counsel for the parties be pleased to make the same absolute by granting the reliefs prayed for herein.

And / or





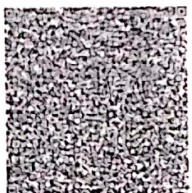





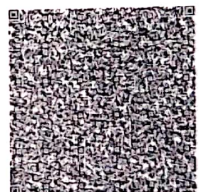
Pass such order/orders as your lordships may deem fit and proper in the given facts and circumstances of this case.

And for this the Petitioner shall ever pray.

AFFIDAVIT

I, Anil Kumar, son of Late Raja Ram Singh, aged about 56 years , Male, having office at BASA BHAWAN, North of Income Tax Golamber , J.L. Nehru Marg , Patna – 800001 do hereby solemnly state and affirm as follows: -

1. That I am General Secretary of the Petitioner Association in this case and as such am well acquainted with the facts and circumstances of this case.
2. That the contents of this writ petition have been drafted under my instructions and I have read the contents thereof which I have fully understood.
3. That it is stated that the averments made under Para 3, 27 and 28 are true to the best of my knowledge and under Para 4, 5, 7 to 16, 18 to 20 and 22 to 26 are true to best of my information derived from the records and the rest are by way of submission before the Hon'ble Court.
4. That the annexure/annexures are true/photo copy of the respective originals.

 	 
भारत सरकार Government of India	सूचना
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Anil Kumar

सद्व्यवहार
 सरकार का अधिकारी है
 विचार, पदवी

3. THE INDIAN ADMINISTRATIVE SERVICE (RECRUITMENT) RULES, 1954

In exercise of the powers conferred by subsection (1) of section 3 of the All-India Services Act, 1951 (LXI of 1951), the Central Government after consultation with the Government of the States concerned, hereby makes the following rules, namely:-

1. **Short title:-** These rules may be called the Indian Administrative Service (Recruitment) Rules, 1954.

2. **Definitions-** In these rules, unless the context otherwise requires,-

(a) "Commission" means the Union Public Service Commission;

¹(aa) "Direct recruit" means a person appointed to the service after recruitment under clause (a) of sub-rule (1) of rule 4;

(b) "Joint Cadre" and "State Cadre" have the meaning respectively assigned to them in the Indian Administrative Service (Cadre) Rules;

²(c) []

(d) " member of the Indian Civil Service" means a person who, having been appointed to the civil service under the Crown of India, known as the Indian Civil Service, continues, on and after the commencement of the Constitution to serve under the Government of India or of a State;

(e) "Service" means the Indian Administrative Service;

(f) "State" means ³[a State specified in the first Schedule to Constitution and includes a Union Territory];

(g) "State Civil Service" means:-

⁴(i) for the purpose of filling up the vacancies in the Indian Administrative Service Cadre for the Arunachal Pradesh, Goa, Mizoram, Union Territories under rule 9, any of the following Services, namely:-

a. the Delhi and Andaman and Nicobar Islands Civil Service;

b. the Goa Civil Service;

c. the Pondicherry Civil Service;

d. the Mizoram Civil Service

¹ Inserted vide MHA Notification No. 23/ 46/ 64-AIS(II)-A dated 13-9-1966

² Omitted vide DP & AR Notification No. 31/ 7/ 72- AIS(I)-A dated 16-3-73.

³ Substituted with effect from 1-11-1956 vide MHA Notification No. 13 /21 / 56 /-AIS(III) dated 28-2-1958, and further amended with effect from 4-9-1958 vide MHA Notification No. 5 /25 /58-ASI(II)dated 8-7-1959.

⁴ Substituted vide DP & T Notification No. 13013 /1/89-AIS(I) dated 24-1-72.

19

e. the Arunchal Pradesh Civil Service

- (ii) in all other cases, any service or services approved for the purpose of these rules by the Central Government, in consultation with the State Government, a member of which normally holds charge of a sub-division of a district for purposes of revenue and general administration or posts of higher responsibility;

⁵(h) "State Government concerned", in relation to a Joint Cadre, means the Joint Cadre Authority.

⁶3. **Constitution of the Service:-**The Service shall consist of the persons recruited to the Service in accordance with the provisions of these rules.

4. **Method of recruitment of the Service:-** (1) Recruitment to the Service after the commencement of these rules, shall be by the following methods, namely:-

(a) By a competitive examination;

⁶(aa) Omitted.

(b) By promotion of a [substantive] member of a State Civil Service;

[(c) by selection, in special cases from among persons, who hold in a substantive capacity gazetted posts in connection with the affairs of a State and who are not members of a State Civil Service.]

⁶4(2) Subject to the provisions of these rules,

(a) the method or methods of recruitment to be adopted for the purpose of filling up any particular vacancy or vacancies as may be required to be filled during any particular period of recruitment, shall be determined by the Central Government in consultation with the Commission and the State Government concerned;

(b) the number of persons to be recruited by each method shall be determined on each occasion by the Central Government in consultation with the State Government concerned.

⁷4(3) Notwithstanding anything contained in sub-rule (1), if in the opinion of the Central Government the exigencies of the service so require, the Central Government may, after consultation with the State Government and the Commission, adopt such methods of recruitment to the Service other than those specified in the said sub-rule, as it may by regulations made in this behalf prescribe.

⁸4(4) Notwithstanding anything hereinbefore contained in this rule, in relation to the State of Jammu & Kashmir, recruitment to the State Cadre on its initial constitution shall be made by such method as the Central Government may after consultation with the State Government and the Commission, prescribe.

⁶[4(5) & 4(6)]

⁵ Substituted vide D.P. & A.R. Notification No. 13/4/71-AIS-I dated 11.1.72

⁶ Substituted & amended vide DOPT Notification No.14015/51/96-AIS(I) dated 31.12.1997(GSR No.729E dt. 31.12.1997)

⁷ Introduced vide MHA notification No.17/4/56-AIS(III) dated 14-5-56

⁸ Introduced w.e.f. 4-9-58 vide MHA Notification No.5/25/58-AIS-II dated 8.7.59

20

5. Disqualifications for appointment

(1) No person shall be qualified for appointment to the Service unless he is a citizen of India⁹ () (or belongs to such categories of persons as may, from time to time, be notified in this behalf by the Central Government).¹⁰

¹¹[]

¹²5(2) No person-

- (a) Who has entered into or contracted a marriage with a person having a spouse living, or
- (b) Who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the Service:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and there are other grounds for so doing exempt any person from the operation of this sub-rule.

5(3) []

¹³5(4) []

¹⁴6. Appointment to the Service:-

(1) All appointments to the Service after the commencement of these rules shall be made by the Central Government and no such appointment shall be made except after recruitment by one of the methods specified in rule 4.

6(2) The initial appointment of persons recruited to the Service under clause (a)¹⁵ of sub-rule (1) of rule 4 shall be in the Junior Time Scale of pay.

¹⁶6(3) The initial appointments of persons recruited to the Service under clauses (b) and (c) of sub-rule (1) of rule 4 shall be in the Senior Time Scale of pay.

¹⁷6A- Appointment of direct recruits and officers recruited by selection from among Released Emergency Commissioned Officers and Short Service Commissioned Officers to posts in the Senior Time Scale of pay:- (1) Appointments of officers recruited to the Service under clause (a) of sub-rule (1) of rule 4 to posts in the Senior Time Scale of pay shall be made by the State Government concerned.

6A(2) An officer, referred to in sub-rule (1), shall be appointed to a post in the Senior Time Scale of pay, if, having regard to his length of service and experience, the State

⁹ Substituted/omitted vide DP&T Notification No.1/1/71-AIS-A, dated 6.3.71

¹⁰ Inserted/omitted w.e.f. 5.4.66 vide MHA Notification No.1/1/66-AIS(I), dated 12.8.68

¹¹ Omitted vide DOPT Notification No.14015/51/96-AIS(I) dated 31.12.1997(GSR No.729E dt. 31.12.1997)

¹² ibid note 9

¹³ ibid note 9

¹⁴ Rule 6 re-numbered as sub-rule (1) and sub-rules (2) and (3) introduced w.e.f. 24.9.66 vide MHA Notification No.23/63/46-AIS-III-A dated 13.9.66

¹⁵ ibid note 11

¹⁶ Substituted & amended vide DOPT Notification No.14015/51/96-AIS(I) dated 31.12.1997(GSR No.729E dt. 31.12.1997)

¹⁷ Inserted vide Notification No.11027/1/75-AIS-A dated 29.6.76

(21)

Government is satisfied that he is suitable for appointment to a post in the Senior Time Scale of pay.

¹⁸ Provided that, if he is under suspension or disciplinary proceedings are instituted against him, he shall not be appointed to a post in the Senior Time Scale of pay, until he is reinstated in the Service, or the disciplinary proceedings are concluded and final orders are passed thereon, as the case may be;

Provided further that on the conclusion of the disciplinary proceedings,

- (a) if he is exonerated fully and the period of suspension, if any, is treated as duty for all purposes, he shall be appointed to the Senior Time Scale of pay from the date on which he would have been so appointed, had the disciplinary proceedings not been instituted against him, and paid accordingly; and
- (b) if he is not exonerated fully and if the State Government, after considering his case on merits, proposes not to appoint him to the Senior Time Scale of pay from the date on which he would have been so appointed had the disciplinary proceedings not been instituted against him, he shall be given an opportunity to show cause against such action."

6A (3) Notwithstanding anything contained in sub rule (2), the State Government may-

- (a) withhold the appointment of an officer, referred to in sub-rule (1), to a post in the Senior Time Scale of pay--
 - (i) till he is confirmed in the Service, or
 - (ii) till he passes the prescribed departmental examination or examinations, and appoint to such a post, an officer junior to him; ¹⁹ who has passed the prescribed departmental examination or examinations.
- (b) appoint an officer, referred to in sub-rule (1), at any time to a post in the senior time-scale of pay as a purely temporary or local arrangement.

7. Recruitment by competitive examination.

- 7(1) A competitive examination for recruitment to the Service shall be held at such intervals as the Central Government may, in consultation with the Commission, from time to time, determine.
- 7(2) The examination shall be conducted by the Commission in accordance with such regulations as the Central Government may from time to time make in consultation with the Commission and State Governments.
- 7(3) Appointments to the Service shall be subject to orders regarding special representation in the Service for Scheduled Castes Scheduled Tribes [and Other Backward Castes]²⁰ issued by the Central Government from time to time in consultation with the State Governments.

¹⁸ ibid note 17

¹⁹ Inserted vide DP&AR Notification No.11/5/73-AIS(I)-A dated 6.7.74

²⁰ Added vide DOPT Notification No.14015/51/96-AIS(I) dated 31.12.1997(GSR No.729E dt. 31.12.1997)

122

Provided that the candidates belonging to the Scheduled castes or Scheduled Tribes (or the other Backward Classes)²¹ and declared by the Commission to be suitable for appointment to the Service shall be appointed against unreserved vacancies in case they qualify for appointment to the Service based on their merit without recourse to the benefit of reservation.

- 7(4) Candidates belonging to the Scheduled Castes or the Scheduled Tribes or Other Backward Classes declared by the Commission to be suitable for appointment to the Service with due regard to the maintenance of efficiency of administration may be appointed to the vacancies reserved for the candidates of the Scheduled Castes or the Scheduled Tribes or Other Backward Classes, as the case may be, under sub-rule (3)

Explanatory Note:- The provisions for reservation in respect of the Other Backward Classes for recruitment to the Service was commenced from the year 1994 onwards and hence it is proposed to give retrospective effect to the provisions of sub-rule (3) of Rule 7 from the 1st day of January 1994. It is certified that by giving retrospective effect to the provisions of the sub-rule (3) of Rule 7, nobody is being adversely effected.

7 (5) []

²²7A [deleted]

8. Recruitment by promotion or selection for appointment to State and Joint Cadre:-(1)
The Central Government may, on the recommendations of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Governments and the Commission, from time to time, make, recruit to the Service persons by promotion from amongst the ²³[substantive] members of a State Civil Service.

- 8(2) The Central Government may, in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission, from time to time, make, recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service of that State ²⁴[but who holds a gazetted post in a substantive capacity].

- 8(3) (a) Where a vacancy occurs in a State Cadre which is to be filled under the provision of this rule, the vacancy shall be filled by promotion of a member of the State Civil Service or, as the case may be, by selection of any other officer serving in connection with the affairs of that State.

- (b) Where a vacancy occurs in a Joint Cadre which is to be filled under the provision of this rule, the vacancy shall, subject to any agreement in this behalf, be filled by promotion of a member of the State Civil Service of any of the States constituting the group or as the case may be, by selection of any other officer serving in connection with the affairs of any such State(s).

²⁵9. Number of persons to be recruited under rule-8

²¹ *ibid* note 20

²² Deleted vide DOPT Notification No.14015/51/96-AIS(I) dated 31.12.1997(GSR No.729E dt. 31.12.1997)

²³ Added vide MHA Notification No.13/10/57-AIS(III)-A, dated 29.7.1958

²⁴ *ibid* note 23

²⁵ Amended DOPT Notification No.14015/51/96-AIS(I) dated 31.12.1997(GSR No.729E dt. 31.12.1997)

9(1) The number of persons recruited under rule 8 in any State or group of States shall not, at any time, exceed 33 1/3 per cent of the number of senior posts under the State Government, Central Deputation Reserve, State Deputation Reserve and Training Reserve in relation to that State or to the group of States, in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955:

Provided that the number of persons recruited under sub-rule (2) of the rule 8 shall not at any time exceed fifteen per cent of the number of persons recruited under rule 8.

Explanation: For the purpose of calculation of the posts under this sub-rule, fractions, if any, are to be ignored.

9(2) Notwithstanding anything contained in this rule, in relation to the State of Jammu and Kashmir, the number of persons recruited under sub-rule (1) shall not upto 30th April, 2002, exceed at any time, fifty per cent of the number of senior posts under the State Government, central deputation reserve, state deputation reserve and the training reserve in relation to that State in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955.

9(2A) & 9(3) [Omitted]

10. Interpretation - If any question arises as to the interpretation of these rules the Central Government shall decide the same.

11. Repeal and Saving - All rules corresponding to these rules and in force immediately before the commencement of these rules are hereby repealed.

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

GOVERNMENT OF INDIA'S DECISIONS

Government of India's Decisions under Rule 3

1. The lien in the parent cadres of I.C.S. officers permanently seconded to the I.F.S. should be permanently suspended and the officers given proforma promotion in higher ranks in the parent cadres whenever due. In the vacancies caused by the suspension of the liens of these officers appointments should be made on a provisionally substantive basis. Where such an officer is given substantive proforma promotion and confirmed in a super time-scale post in the cadre, while serving in the I.F.S. he would acquire a lien in the post to which he is promoted. Consequently the suspended lien in the lower post should be terminated and only the lien acquired in the higher post should be permanently suspended so that he does not hold liens on two posts at the same and the promoted officer holding the lower post on a provisionally substantive basis can be appointed to it in a substantive capacity.

[G.I. MHA letter No. 8/8/62-AIS(II), dated 23/5/1963.]

2. An I.C.S. officer of the judiciary who has been holding an executive post intermittently between the date of commencement of the Constitution and the date of commencement of these Rules would not be eligible for a declaration that he is a member of the I.A.S. Likewise an I.C.S. officer of the judiciary, who has been holding an executive post intermittently before the date of commencement of these Rules and the commencement of the Constitution, who has later reverted to the judiciary, before the date of commencement of these Rules, cannot be declared to be member of the I.A.S.

24

[G.I. M/Law U.O. No. 14400/50-Adv.(A), dated 8/11/1956-M.H.A. F. No. 1/5/56-AIS-(I).]

Government of India's Decisions under Rule 4:

1.1. Under sub rule (5), the Government of India have decided that appointment to the Joint I.A.S. cadre for the Union Territories of Delhi and Himachal Pradesh on its initial constitution shall be by one or more of the following methods:-

- (i) by appointment of officers selected by the Special Recruitment Board, 1950/51 and included in List I and list II under the Extension to States Scheme who could not be appointed so far to the I.A.S. in the absence of an All India Service cadre in Himachal Pradesh and Delhi.
- (ii) by transfer of I.A.S. officers from the cadres of the other States. Such transfers will, however, take place only with the consent of the State Governments and the individual officers concerned;
- (iii) by appointment of the candidates selected on the results of the I.A.S. (Special Recruitment) Examination, 1956;
- (iv) by promotion of officers belonging to the Himachal Pradesh Civil Services of at least 8 years' seniority and such of officers under the Delhi Administration as have been holding substantive appointments of status comparable to that of a Deputy Collector under that Administration for a minimum period of 8 years;
- (v) by direct recruitment from amongst the candidates declared successful as a result of the latest I.A.S. Competitive Examination conducted by the Union Public Service Commission.

1.2 Recruitment to the cadre after its initial constitution shall be made in accordance with the Recruitment Rules.

2.1 Under sub-rule (5), the Government of India have decided that appointment to the joint I.P.S. cadre for the Union territories of Delhi and Himachal Pradesh on its initial constitution shall be by one or more of the following methods:-

- (1) by transfer of I.P.S. officers from the cadres of other States. Such transfers will, however, take place only with the consent of the State Governments and the individual officers concerned.
- (2) by selection of officers belonging to the Police Service of Himachal Pradesh, who are at present holding the posts of Superintendents of Police and above; only officers holding appointment with eight years' seniority in the State or equivalent cadre will be eligible for consideration. Selections will be made in consultation with the Union Public Service Commission; and
- (3) by direct recruitment from amongst the candidates declared successful as a result of the latest I.P.S. Competitive Examination conducted by the Union Public Service Commission.
Recruitment to the Service after the initial constitution of the Service shall be in accordance with the Recruitment Rules.

2.2 Till such time as the joint cadre is fully constituted and is able to provide suitable officers for all the posts included in the cadre, existing arrangements in regard to the staffing of various posts including deputation of officers from other States will continue.

25

[G.I., M.H.A file No. 3/59/59-AIS(II).]

Government of India's Decision under Rule 5:

Under this rule, it is not necessary for a female officer to obtain the formal permission of the Government before marriage.

[G.I. M.H.A. letter No. 1/1/57-AIS(I), dated 6/2/1957.]

Government of India's Decision under Rule 6A:

The Government of India have held that Rule 6A will apply to vacancies arising in senior posts in the direct recruitment quota after the date of introduction of the said rule viz., 24-9-1966. The direct recruits who became eligible for appointment to senior posts against the vacancies in the direct recruitment quota according to their seniority, prior to 24-9-1966 (the date of introduction of rule 6A) would be deemed to have been appointed to senior posts in accordance with para 4 of Ministry of Home Affairs letter No. 23/46/63-AIS(III)-Vo1. II, dated 29th March, 1966 and as such they will continue to be paid their pay in the senior time-scale of pay even under the introduction of rule 6A till they are actually appointed, to senior posts or the vacancies disappear, as the case may be

[G.I., M.H.A. letter No. 23/46/63-AIS(III), dated 26/10/1966.]

Government of India's Decisions under Rule 7:

The rate of annual recruitment for each State should be worked out, after taking into account not only the maintenance element for meeting deaths, retirements and other casualties in the direct recruitment quota but also the growth element to meet the anticipated expansion of this quota.

[G.I., M.H.A letter No.6/21/64-AIS(I), dated 7/9/1964.]

Government of India's Decisions under Rule 8:

1. An officer belonging to a State Judicial Service recommended for appointment under this rule shall be appointed only after obtaining the consent of the concerned High Court.

[G.I., M.H.A. letter No. F. 5/2/55-AIS(I), dated 29/12/1955.]

2. It has been decided that the members of a State Police Service, the I.P.S., or any other All India Service, that may be constituted in future, and its feeder Service, shall not be eligible for appointment to the I.A.S. under this rule.

[G.I., M.H.A. letter No. F. 13/10/57-AIS(II), dated 14/8/1958.]

Government of India's Decision under Rule

1. In reference to proviso to rule 9(1), it was decided that since the number of persons promoted under sub-rule(2) of rule 8 is not to exceed 15 per cent of the total number of posts available for promotion in a State cadre, any fraction even if it is more than one half, should be ignored.

[G.I., M.H.A. letter No. F. 1/2/62-AIS(I), dated 26/9/1962.]

6. THE INDIAN ADMINISTRATIVE SERVICE (APPOINTMENT BY SELECTION) REGULATIONS, 1997

In exercise of the powers conferred by section 3 of the All India Services Act, 1951 (61 of 1951) and in pursuance of sub-rule (2) of rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954 and in supersession of the Indian Administrative Service (Appointment by Selection) Regulations, 1956, except as respects things done or omitted to be done before such supersession the Central Government in consultation with State Governments and the Union Public Service Commission, hereby makes the following regulations, namely:-

1. Short title and commencement-

- (1) These regulations may be called the Indian Administrative Service (Appointment by Selection) Regulations, 1997.
- (2) They shall come into force on the first day of January, 1998.

2. Definitions- In these regulations, unless the context otherwise requires:-

- (a) "Committee" means the Committee as constituted under regulation 3 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955;
- (b) "Promotion Regulations" mean the Indian Administrative Service (Appointment by Promotion) Regulations, 1955;
- (c) "Recruitment Rules" means the Indian Administrative service (Recruitment) Rules, 1954; and
- (d) Words and expressions used herein and not defined but defined in the Indian Administrative Service (Recruitment) Rules, 1954 and Indian Administrative Service (Appointment by Promotion) Regulations, 1955, shall have the meanings respectively assigned to them in those Rules and Regulations.

3. **Determination of vacancies to be filled:** - The Central Government shall, in consultation with the State Government concerned, determine the number of vacancies for which recruitment may be made under these regulations each year. The number of vacancies shall not exceed the number of substantive vacancies, as on the first day of January of the year, in which the meeting of the Committee to make the selection is held.

4. **State Government to send proposals for consideration of the Committee.**- (1) The State Government shall consider the case of a person not belonging to the State Civil Service but serving in connection with the affairs of the State who,

- (i) is of outstanding merit and ability; and
- (ii) holds a Gazetted post in a substantive capacity; and
- (iii) has completed not less than 8 years of continuous service under the State Government on the first day of January of the year in which his case is being considered in any

27

post which has been declared equivalent to the post of Deputy Collector in the State Civil Service and propose the person for consideration of the Committee. The number of person proposed for consideration of the Committee shall not exceed five times the number of vacancies proposed to be filled during the year:

Provided that the State Government shall not consider the case of a person who has attained the age of 54 years on the first day of January of the year in which the decision is taken to propose the names for the consideration of the Committee:

Provided also that the State Government shall not consider the case of person who, having been included in an earlier select list, has not been appointed by the Central Government in accordance with the provisions of regulation 9 of these regulations.

5. Preparation of a list of suitable Officers by the Committee- The committee shall meet every year to consider the proposal of the State Government made under regulation 4 and recommend the names of the persons, not exceeding the number of vacancies to be filled under regulation 3, for appointment to the Service. The suitability of a person for appointment to the service shall be determined by scrutiny of service records and personal interview:

Provided that no meeting of the Committee shall be held and no list for the year in question shall be prepared, when

- (a) there are no substantive vacancies as on the first day of January of the year in the posts available for recruitment of persons under sub-rule (2) to rule 8 read with proviso to sub-rule (1) to rule 9 of the recruitment rules; or
- (b) the Central Government in consultation with the State Government decides that no recruitment shall be made during the year to the substantive vacancies as on the first day of January of the year in the posts available for recruitment under sub-rule (2) of rule 8 read with provision to sub-rule (1) to rule 9 of the recruitment rules; or
- (c) the Commission, either on its own or on a proposal made by the Central Government or the State Government, considers that it is not practicable to hold a meeting of the Committee during the year, in the facts and circumstances of each case.

Explanation- In case of Joint Cadres, a separate select list shall be prepared in respect of each constituent having a State Civil Service.

6. Consultation with the Commission:-(1) The recommendations of the Committee made under regulation 5 shall be placed before the State Government concerned which shall forward the same to the Commission for approval along with

- (i) the confidential records of the officer concerned; and
 - (ii) the observations, if any, of the State Government and the recommendations of the Committee.
- (2) The State Government shall also forward the recommendations of the Committee and its observations, if any, to the Central Government. The Central Government shall forward their observations, if any, on the recommendations of the Committee, to the Commission.

28

7. Preparation of select list by the Commission.- (1) The Commission shall consider the list prepared by the Committee, the observations, if any, of the Central Government and the State Government concerned on the recommendations of the Committee and approve the list subject to the provisions of sub-regulation (2) which shall be termed as a select list.

(2) If the Commission considers it necessary to make any amendment in the list, it shall consult the Central Government and the State Government concerned and after taking into account the comments, if any, of the Central Government and the State Government concerned, may approve the list with such amendments, if any, as are in its opinion, just and proper.

8. Appointment to the Service from the select list.-

(1) Appointment of persons who are included in the select list, and are willing to be appointed to the Service, shall be made by the Central Government, within a period of sixty days, in the order in which the names of such persons appear in the select list:

Provided that the appointment of persons who are included in the select list shall be made in accordance with the agreement arrived at under clause (b) of sub-rule (3) of rule 8 of the recruitment rules in the order in which the names of such persons appear in the relevant parts of the select list:

Provided also that in case a select list officer has expressed his unwillingness for appointment to the Service, he shall have no claim for appointment to the Service from that select list unless he informs the Central Government through the State Government before the end of the year in which the meeting of the Committee is held to prepare the select list or within sixty days of the date of the letter conveying his expression of unwillingness to be appointed to the Service whichever is later, revoking his earlier expression of unwillingness for appointment to the Service.

9. Power of the Central Government not to appoint in certain cases:- Notwithstanding anything contained in these regulations, the Central Government may not appoint any person whose name appears in the select list, if it is of the opinion that it is necessary or expedient so to do in the public interest.

Provided that no such decision shall be taken by the Central Government without consulting the Union Public Service Commission and without recording the reasons therefor.

Annexure-3

(29)

पत्र संख्या-1/सी0-1013/99 का0 2178/

बिहार सरकार

कार्मिक एवं प्रशासनिक सुधार विभाग

:: संकल्प ::

पटना, दिनांक - 21.4.2001

विषय : भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 के अंतर्गत गैर राज्य असैनिक सेवा के पदों को उपसमाहर्ता के पद की समकक्षता संबंधी अधिघोषणा ।

भारतीय प्रशासनिक सेवा (भर्ती) नियमावली, 1954 के नियम 8 (i) तथा भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 के अंतर्गत गैर राज्य असैनिक सेवा के पदाधिकारियों को चयन द्वारा भारतीय प्रशासनिक सेवा में नियुक्ति का प्रावधान है । भा0प्र0से0 (चयन द्वारा नियुक्ति) विनियम 1997, के नियम 4 (iii) में अन्य उपबंधों के अतिरिक्त यह उपबंध भी किया गया है कि गैर असैनिक सेवा के पदाधिकारियों द्वारा धारित पद राज्य सिविल सेवा द्वारा उप समाहर्ता के समकक्षता घोषित किया गया हो ।

2. इस संदर्भ में माननीय सर्वोच्च न्यायालय द्वारा सिविल अपील सं0-106/1994 टी0 शामभट्ट बनाम भारतीय संघ व अन्य में दिनांक 29.7.94 को पारित आदेश में समकक्षता संबंधी मापदंड निर्धारित किये गये हैं ।

3. अब तक गैर राज्य असैनिक सेवा के पदों को भा0 प्र0 से0 (चयन द्वारा नियुक्ति) विनियम, 1997 के नियम 4 (iii) के संदर्भ में उपसमाहर्ता के पद संबंधी समकक्षता घोषित नहीं की गयी है । समकक्षता संबंधी घोषणा हेतु अनुशंसा उपलब्ध कराने के लिए कार्मिक एवं प्रशासनिक सुधार विभाग के संकल्प सं0-558 दिनांक 21.01.2000 द्वारा समिति का गठन किया गया ।

4. राज्य सरकार ने उक्त समिति की अनुशंसा पर सन्धक रूप से भा0 प्र0 से0 (चयन द्वारा नियुक्ति) विनियम, 1997 के उद्देशार्थ विचारोपरांत गैर असैनिक

अभिप्रमाणित/सत्यापित

niyukti

(कन्हैया लाल साह)

क सूचना पदाधिकारी सह अवर सचिव
प्रधान्य प्रशासन विभाग, बिहार, पटना



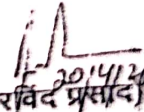
बिहार वन सेवा, बिहार आरक्षी सेवा एवं बिहार प्रशासनिक सेवा से भिन्न अन्य राज्य सेवाओं एवं संवर्गों के 10,000-15,200 रु० के वेतनमान तथा उच्चतर वेतनमान वाले पदों पर कार्यरत पदाधिकारियों के कर्तव्य तथा दायित्वों को देखते हुए इन वेतनमान के पदों को भा०प्र०से० (चयन द्वारा नियुक्ति) विनियमन 1997 की धारा 4 के उद्देश्यार्थ राज्य सिविल सेवा के उपसमाहर्ता के समकक्ष घोषित किया जाए। इस वेतनमान वाले पदों एवं इससे उच्चतर वेतनमान वाले पदों पर कुल मिलाकर कम से कम आठ वर्षों की सेवा होने के उपरांत ही संबंधित पदाधिकारी इस विनियम के अंतर्गत भारतीय प्रशासनिक सेवा में चयन द्वारा नियुक्त होने के विचार क्षेत्र में आ सकते हैं।

आदेश: आदेश दिया जाता है कि इस संकल्प को बिहार राजपत्र में प्रकाशित किया जाय तथा इसकी प्रति सभी संबंधितों को उपलब्ध करायी जाय।

बिहार राज्यपाल के आदेश से,
ह०/-
(अरविंद प्रसाद)
सरकार के सचिव।

शापांक-1/सी०-1013/99 का० 2178 / पटना दिनांक - 21-4-2001

प्रतिलिपि: मुख्य सचिव, बिहार, पटना को कोषांग/सभी विभाग/विभागाध्यक्ष को सूचनार्थ एवं आवश्यक कार्यार्थ प्रेषित।


(अरविंद प्रसाद)
सरकार के सचिव।

अभिप्रेत/संलग्न
(कृपया सचिव के सूचना सचिव को सूचना देना)

Annexure-4

(31)

1.

OA 199/2009

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No. 199 of 2009**

Date of order : 22nd December, 2009

C O R A M

**Hon'ble Mrs. Justice Rekha Kumari, Member [Judicial]
Hon'ble Mr. Sudhir Kumar, Member [Administrative]**

1. Md. Abdul Mannan son of Late Haji Abdul Latif, aged about 45 years, resident of Mohuddinpur, P.S. Habibpur, District - Bhagalpur. At present posted as Assistant Engineer, Engineer-in-Chief [Central's] Cell, Water Resources Department, Sinchai Bhawan, Patna Presently residing at Y-2, Ashiana Nagar.

2. Satish Kumar son of Late Sri R.C.P. Singh, aged about 45 years, resident of J-89, P.C. Colony, Kankarbagh, P.S. Kankarbagh, District - Patna. Presently posted as S.D.O., Western Embankment Sub Division, Bhaluahi, Western Embankment Division, Nirmali, District - Supaul.

..... **Applicants.**

Vrs.

1. The Union of India through the Secretary, Department of Personnel and Training, New Delhi.

2. The Union Public Service Commission, through its Secretary, Dholpur House, Shahjehan Road, New Delhi.

3. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.

4. The Secretary, Water Resources Development, Sinchai Bhawan, Patna, Govt. of Bihar, Old Secretariat, Patna.

5. The Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Old Secretariat, Patna.

6. The Joint Secretary [Management], Water Resources

2.

OA 199/2009

32

Department, Sinchai Bhawan, Govt. of Bihar, Patna.

.....

Respondents.

Counsel for the applicant : Shri Khatim Raza

Counsel for the respondents [UOI]: Shri A.R. Pandey, Sr. SC

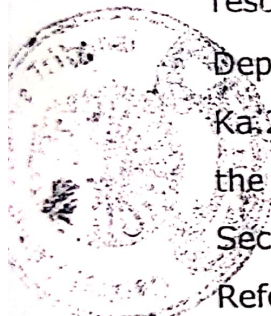
Counsel for the respondents [State of Bihar] : Shri Shekhar Singh

ORDER

Sudhir Kumar, Member [A] : -

This application has been filed by the applicants with the following prayers :-

8 [i] For an appropriate order/direction to quash the resolution of the Personnel and Administrative Reforms Department, Govt. of Bihar contained in memo No. Ka.2178 dated 21.4.2001 [Annexure-A/2 and also to quash the letter no. 7465 dated 8.7.2008 issued by the Under Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna [Annexure-25] whereby by the Govt. of Bihar in purported exercise of power under Regulation 4 [iii] of the IAS [Appointment by Selection] Regulation 1997 [hereinafter referred to as the "Regulation"] framed under the Sub Rule [2] of the Rule 8 of the I.A.S. [Recruitment] Rules, 1954 [hereinafter referred to as the "Rules"], and for the purposes of the aforesaid regulation made a declaration by which those post belonging to the Non State Civil Service other than Bihar Police Service and Bihar Administrative Service and Bihar



Forest Service in the pay scale of Rs. 10,000-15,200 and higher scale of pay have been declared to be equivalent to the post of Deputy Collector, in the State Administrative Service with further stipulation that only incumbents of such post who have remained in aforesaid scale of pay or higher scale of pay for at least 8 years would become eligible for consideration for selection to the IAS as per the aforesaid Regulations, on the grounds that the aforesaid resolution is ultravires the Rules, amounts to misuse exercise of powers, is arbitrary and violative of the Articles 14 and 16 of the Constitution of India.

8[ii] For an appropriate order or direction to the respondents to consider the case of the applicants for appointment to the IAS in accordance with the aforesaid Rules and Regulations against the vacancies existing for the year 2006, 2007 and 2008 and be pleased to further command the respondents, State of Bihar to recommend the name of the applicants found suitable as per the Regulation 4 of the aforesaid Regulation to the Committee [as constituted under Regulation 3 of the I.A.S. (Appointment by Selection) Regulation, 1955 and hereinafter referred to as the "Committee"] for its consideration and onward recommendation for appointment to the I.A.S. As the applicants have a genuine and serious apprehension that the respondent- Govt. of Bihar in a wholly malafide manner fail to recommend the names of

34

4.

OA 199/2009

selected candidates from the Non State Civil Services of the State for Appointment by Selection against the vacancies available for the present year i.e. 2008 as i had done for the past 3 years consecutively when the name of the applicants who was found most suitable candidate for appointment by the parent department to the IAS in the year 2006, 2007 and 2008 was not recommended by the State Govt. on wholly inexplicable reasons.

8[iii] For an appropriate order or direction for accumulation of vacancy for the year 2006 – 2008 as the applicants have applied and their names were cleared by the required clearance such as Lokayukts, Cabinet Vigilance, Internal Vigilance and five years confidential report on every occasion.

8[iv] For an appropriate order or direction not to invoke the Rule 5[1][c] of the Regulation 1997 till the disposal of this O.A. for the vacancies, 2008.

8[v] For any other relief or reliefs to which the applicants may be entitled in law.

2. The applicants had also prayed for an interim relief or direction to the Respondent No.2 [Union Public Service Commission] to determine and notify the vacancies for selection of Non State Civil Services officers of Bihar to the IAS cadre of Bihar in respect of calendar years 2006, 2007 and 2008 and not



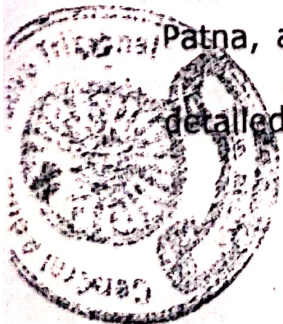
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5.

OA 199/2009

to invoke Rule 5[1][c] of the Regulation, 1997 [hereinafter Regulation 1997] with regard to the vacancies of the year 2008.

3. A circular letter was issued by the Department of Personnel and Administrative Reforms of Bihar, Patna, to all Departments of the State Government on 7.9.2006, seeking nominations of candidates who were not in the State Civil Services, who had excellent capability and qualities, and had not crossed 54 years of age on 1.1.2006, and had minimum 8 years of experience as a Gazetted Officer in a post equivalent to Deputy Collector in accordance with the decision of the State Government dated 21.4.2001 circulated along with that. Through that memorandum dated 21.4.2001 enclosed as Annexure-A/2, it was mentioned that all services of the State Government which had pay scale of Rs. 10,000-15,200 and above, and did not belong to the Bihar Forest Service, and the Bihar Police Service, or Bihar Administrative Service, would become eligible for consideration under these Rules. The applicant no.1, who was working as Assistant Engineer, Jalvigyan Nideshalay at Anisabad, Patna, applied against that circular of vacancies enclosing his detailed bio-data. Similarly, the applicant no.2 also applied



36

6.

OA 199/2009

through his letter dated 3.9.2006, along with his bio-data, while he was posted as Executive Engineer, at Western Embankment Division, Nirmali, Supaul. It appears that the Departmental Screening Committee met thereafter, but did not recommend the names of either of these two applicants. Thereafter, they filed their representations dated 10.12.2006 and 12.12.2006 [Annexure-5/A and Annexure-5/B], challenging the prescribed requirement of 8 years of service in the pay scale of Rs. 10,000-15,200. Their further contention was that under Rule 4 [3] of the said Regulations, 1997, no equivalence of any post of Non State Civil Services had been declared equal to the post of Deputy Collector by the Govt. of Bihar, and for the purpose of determination of such equivalence for such declaration, a committee had been set up by the Bihar Government through circular no.558 on 22.1.2000. After detailed deliberations, the aforesaid committee came up with a recommendation, which was accepted in toto by the DPR, and equivalence to the said pay scale of 10,000-15,200 for at least 8 years was prescribed thereafter. The applicants' contention was that a general graduate [Deputy Collector] and an Engineering graduate,



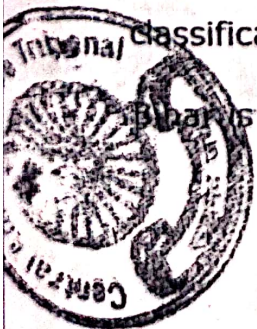
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7.

OA 199/2009

appointed to Gazetted Class - II post through Bihar Public Service Commission, are both appointed at the entry level in the same pay scale of Rs. 6,500-10,500. Hence, their contention was that the denial to an Engineering graduate of the rank of Deputy Collector holding the post of Gazetted Class-II post equivalent to Deputy Collector is a great anomaly, as an Engineering graduate has to render one extra year of education in obtaining a degree of graduation. Their further contention was that though as per circular dated 21.4.2001 enclosed to the circular calling for names under Non SCS category, an Engineering graduate would have had to render at least 20 years of service in achieving the pay scale of Rs. 10,000-15,200 and then require another 8 years' service in that pay scale. to be able to be recommended for selection for IAS. Their contention was that, the requirement of 8 years' service in the pay scale of Rs. 10,000-15,200 was not just and proper, and they prayed for this Tribunal to do away with the anomaly.

4. It was accepted by the applicants in O.A. that the classification in various class of posts in the service of State of Bihar is determined by the statutory rules framed by the Govt. of

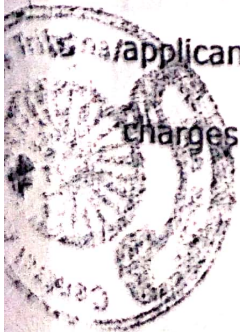


Bihar in the year 1956, termed as Bihar Govt. Classification of Services/Posts, Rules, 1956. Their contention was that since the basic pay of Assistant Engineer [Basic Grade] and the basic pay of Deputy Collector [Basic Grade] is the same, any exercise regarding the classification of posts and declaration of their classification vis-a-vis posts of all other services has to be based upon the 1956 Bihar Government Classification of Services/Posts Rules. It was further stated that IAS Appointment by Selection Regulation, 1956, stood amended w.e.f. 30th March, 1989 by raising the requirement of minimum continuous service in Gazetted posts from 8 years to 12 years as one of the eligibility criteria while at the same time, dispensing with the requirement of Class-I status of the Non State Civil Services officers involving duties comparable in importance and responsibilities to that of Class-I officers in a Gazetted post in the State Civil Service, and have pointed out that in the case of T. Sham Bhatt vs. U.O.I. & others decided on 29.7.1994 [1994 Suppl. (3) SCC 340], the Hon'ble Supreme Court had struck down the 1989 amendment on the ground of arbitrariness and being violative of Articles 14 and 16 of the Constitution of India. It was pointed out by the



applicants that after the decision of the Hon'ble Apex Court in T. Sham Bhatt case, the IAS [Appointment by Selection] Regulation, 1956, was further changed to bring about the present position w.e.f. 1.1.1998. After this, the Govt. of Bihar had gone through the motions of setting up an Expert Committee, and after examining the recommendations of that Committee, it had issued the equivalence notification dated 21.4.2001 [Annexure-A/2]. They further pleaded that like the Central Govt. which revised its pay scales in of Central Govt. Servants in 1973, 1986 and 1996, the State Govt. had also its 4 Pay Revisions in 1973, 1981, 1986 and 1996.

5. The applicants have further submitted that when on 19.3.2007 the Departmental Screening Committee of Department of Water Resources of Govt. of Bihar met, they asked the Department to submit the internal Vigilance Report of the Department in respect of the four candidates including the two applicants of this O.A., and that the Internal Vigilance through its report dated 3.4.2007 reported that only the instant applicants were found to be having no disciplinary proceedings or charges against them during their entire service. Therefore,



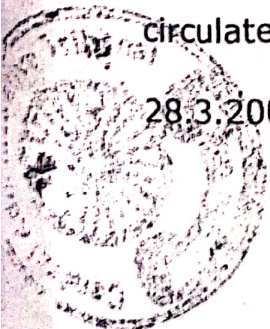
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OA 199/2009

through memo dated 4.4.2007 of the Water Resources Department the applicants were asked to give details of any extra ordinary work done by them, in response to which they submitted their replies along with appreciation certificates vide Annexures-A/11 , A/12 and A/13. Thereafter, through memo dated 11.5.2007, the Water Resources Department of Govt. of Bihar sought DPAR's re-consideration for dispensing with the requirement of 8 years service in the pay scale of Rs. 10,000-15,200 but no reply to that request appears to have been received. The applicants further claimed that they were found eligible for consideration for appointment to IAS in the Non SCS category on the basis of -[i] Report from Lokayukt, [ii] From Internal Vigilance, [iii] Candidates' 5 years' confidential report from the concerned department, and [iv] Cabinet Vigilance report.

6. In spite of this, the Departmental Screening Committee Meeting held on 5.11.2007 did not recommend any case for consideration by DPAR. Vacancies for the year 2008 were again circulated by the DPAR, Govt. of Bihar through their letter dated 28.3.2008. The applicants applied once again. The Departmental



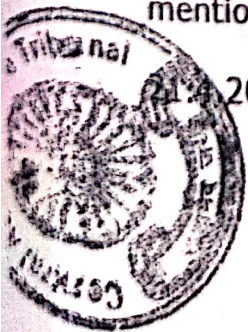
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II.

OA 199/2002

Screening Committee met again on 14.5.2008 and again on 20th May, 2008, the Water Resources Department wrote to the DPAR seeking relaxation and re-consideration of the criteria of the officers having served for 8 years in the pay scale of Rs. 10,000-15,200. This request was this time specifically negated by the DPAR, Govt. of Bihar, on 8.7.2008.

7. The contention of the applicants is that Regulation 4 of the said Regulation, 1997, talks about equivalence to the post of Deputy Collectors and State Civil Services, but does not mention 8 years' continuous service in the pay scale of Rs. 10,000-15,200. Their contention is that rather the Regulation 4 only states that the applicant should have completed not less than 8 years of continuous service under the State Govt. on a post declared equivalent to the post of Deputy Collector, but since no particular pay scale has been mentioned in the Regulation 4, the imposition of the condition of any such pay scale by the Bihar Govt. could not be binding in law, and this is bad in law. They also contended that the requirement of 8 years' service in the mentioned pay scale, as prescribed by the notification dated 2001, had been adopted as it is by the Govt. of Jharkhand

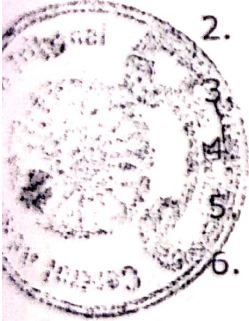


(42)

also, through, their notification dated 17.1.2003, which was challenged in O.A. 221 of 2001 before the Ranchi Circuit Bench of CAT, and that the Government of Jharkhand notification stood quashed and set aside by the orders in that O.A. dated 13.1.2006. By implication, they contended that that equivalence stood quashed and set aside in respect of the State Government of Bihar also. They had also contended that in the light of 6th Pay Commission, the Govt. of Bihar had declared various services of the State as premier services, vide their resolution dated 17.1.2009, as follows :-

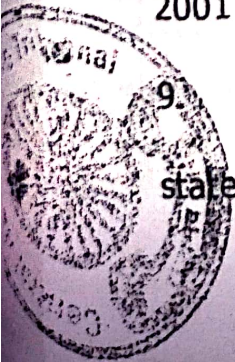
- 1.. Bihar Engineer Service,
2. Bihar Administrative Service,
3. Bihar Police Service,
4. Bihar Medical Services
5. Bihar Veterinary Service,
6. Bihar Finance Service. "

8. The applicants submitted that Bihar Administrative Service and Bihar Engineering Service have in this connection been bracketed as being equivalent in status, and an inference has to be drawn that the officers of both the services are equivalent in rank and file at all levels from the entry level onwards. In the



light of this submission, the applicants stated that any such stipulation of 8 years' continuous service in respect of Non SCS officers, which stipulation did not apply in the case of the SCS officers of Bihar Administrative Service for the purpose of their promotion, was improper and unjustified. As a result, they have prayed for quashing the resolution of Govt. of Bihar issued through memo dated 21.4.2001, and to quash the letter dated 8.7.2008 issued by the DPAR, Govt. of Bihar, Patna [Annexure-A/25] by which the Govt. of Bihar had sought to again apply the contents of the memo. The applicants further contended that the State Govt. of Bihar had failed to recommend any names for such Non SCS Appointment by Selection to IAS Bihar cadre for the years 2006, 2007 and 2008, while the applicants have continuously applied for these vacancies in 2007 and 2008 but their cases were not considered for appointment to IAS of Bihar cadre. In support of their contentions, they had annexed the order of of this Tribunal, Circuit Bench at Ranchi, in O.A. No. 221 of 2001 dated 12.11.2008 [Annexure-A/27 of the O.A.].

9. In their reply, the Respondent No.2, UPSC filed written statement and Respondents No. 3 and 5 filed their written



44

14.

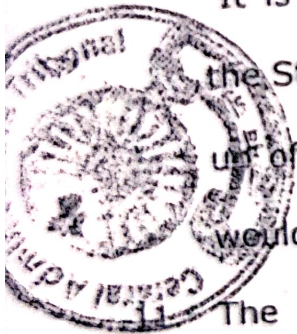
OA 199/2009

statement on behalf of the State of Govt. of Bihar. Both the applicants then filed their supplementary affidavit also in support of their contentions.

10. The Respondent No.2, UPSC explained the procedure for Appointment by Selection to IAS under the said Regulation, 1997. It clarified that the Govt. of India, DOPT had through their letter dated 13.3.2008 determined two vacancies for appointment of Non SCS officers to the IAS of Bihar cadre, subject to the State Govt. furnishing the following certificate :-

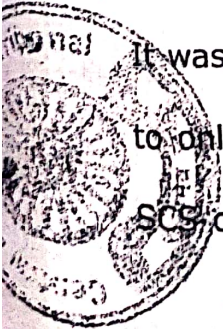
"It is certified that there are Non-SCS officers working in the State who are of outstanding merit and ability and filling up of two vacancies from amongst these Non SCS officers would be in public interest."

The Respondent No.2, UPSC had then addressed to the Chief Secretary, Govt. of Bihar, a letter dated 31.3.2008 asking a proposal to convene a meeting of the Selection Committee to prepare the select list. However, no proposal was received from the State Govt. till 31.12.2008. Thereafter, under Regulation 5 of the Regulation, 1997, the UPSC decided that it was not practicable to convene the Selection Committee Meeting for



the year 2008, which decision was conveyed by it to the Govt. of India and the State Govt. on 15.1.2009. As regards criteria for recommending the officers, the UPSC stated that short-listing and recommending Non SCS officers for selection for promotion to the IAS is under the sole purview of the State Govt., and declaration of the equivalence of the posts in the State Govt. to the post of Deputy Collector is also within the purview of the State Govt. It further clarified that the provisions of the said IAS [Appointment by Selection] Regulation, 1997, are distinct from the provisions of IAS [Appointment by Promotion] Regulation, 1955, since a State Civil Service Officer has a right to be considered for promotion to the IAS with reference to his position in the seniority list of the State Civil Service, subject to fulfillment of the other eligibility criteria laid down in the Regulations. On the contrary, a Non State Civil Service officer has no such immutable right to be considered for appointment to the IAS in the order of any seniority list of the service to which he belongs.

It was reiterated that Appointment by Selection is to be resorted to only in special circumstances, and the appointment of Non SCS officers by Selection under the Selection Regulations, 1997, is



is not akin to the scheme of consideration of SCS officers for promotion to the IAS under the Promotion Regulations, 1955. It further submitted that the Selection Regulations do not provide for preparation of year-wise select list for selection of Non SCS officers for appointment to the IAS as in the case of State Civil Service officers. It also stated that there is no provision in the Selection Regulations, 1997, that the officers sponsored for a particular year will be considered against vacancies for subsequent years if the Selection Committee Meeting for the year in which their names were sponsored, is not held for some reason. It further clarified that the proviso for year wise preparation of Select Lists is applicable only in respect of Appointment Regulations, 1955, applicable to State Civil Services officers. It further stated that the UPSC has already invoked the provisions of Regulation 5[c] of the said Regulations, 1997, and declared that it was not practicable to convene the Selection Committee Meeting to prepare the select list of 2008 for appointment of Non SCS officers of the State of Bihar to the IAS of Bihar Cadre, as no proposal has been received from the State Govt. till the end of that year. Hence, they prayed that the O.A.



was without any substance, and was liable to be dismissed.

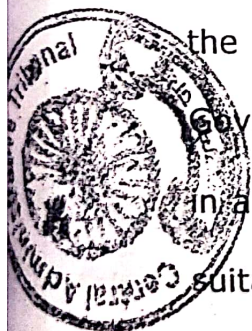
12. In their written statement filed on behalf of the Respondents No.3 and 5, the Chief secretary and the Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar reiterated the Regulations, 1997, which referred to the earlier Regulations, AIS [Appointment by Selection] 1956, which was in force prior to the Regulations, 1997. In that earlier Regulation, the eligibility of Non State Civil Service Officers for consideration of their cases has been mentioned as follows :-

"[i] are of outstanding merit and ability; and

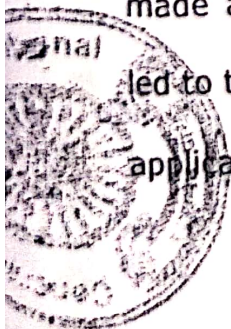
[ii] have completed not less than 12 years of continuous service in a gazetted post under the State Government or in the case of Joint Cadre, under any one of the State Governments constituting the Joint Cadre, holding that post in a substantive capacity and propose the names of officers suitable for appointment to the service.

Provided that the State Government shall not ordinarily consider the cases of persons who have attained the age of 54 years."

13. It was submitted that under the 1997 Regulations, the



eligibility criteria for Non SCS officers has been changed from the minimum 12 years' continuous service in gazetted post, to 8 years' minimum continuous service in any gazetted post which was declared equivalent to the post of Deputy Collector of the State Civil Service. It was further submitted that in the State of Bihar, earlier the posts of Non SCS officers had not been formally declared equivalent to the post of Deputy Collector, and therefore, in order to make necessary policy with respect to such equivalency, it was decided to apply yardsticks in terms of the decision of the Hon'ble Supreme Court dated 29.7.1994 in Civil Appeal No. 106 of 1994 , T. Sham Bhatt vrs. Union of India and others [1994 Suppl. [3] SCC 340]. A Committee was constituted by the Govt. of Bihar under the Chairmanship of Shri B.B.Lall the then Director, LNM Institute of Economic Development and Social Change, Patna, along with 7 other senior IAS officers, vide Resolution No. 558 dated 21.1.2000. It was stated that the recommendation of the Committee was made available to the Government in September, 2000, which led to the impugned notification dated 21.4.2001 annexed by the applicant to the O.A. as Annexure-A/2. It was, therefore,



submitted that the equivalence of posts of Non SCS officers with the Deputy Collectors of State Civil Services as presently declared is the considered decision of the State Govt., and has followed the yardsticks laid down by the Hon'ble Supreme Court in its judgment dated 29.7.1994 in the case of T. Sham Bhatt vs. U.O.I. & others. It was further stated that various departments had been requested to select the outstanding candidates from among the officers under their control, and the internal Departmental Screening Committees constituted for this purpose considered mainly the duties of the holders of the posts which carried equivalent administrative duties as well as technical duties. It was submitted that such criteria was based upon the definition of State Civil Services as given in the IAS [Appointment by Selection] Regulations, 1955. In the light of these submissions, the respondents no.3 and 5 prayed that this O.A. may be dismissed as pre-mature and without having any merit.

14. In their supplementary affidavit dated 31.8.2009, the

applicants sought to bring on record the order dated 21.8.2009

passed by the Hon'ble Jharkhand High Court at Ranchi in Writ



(50)

petition, W.P.[C] No. 2464 of 2006, the State of Jharkhand vs. U.O.I. & others. It was submitted that the Govt. of Jharkhand had adopted the Govt. of Bihar notification dated 21.4.2002 in toto vide their notification dated 17.1.2003, which had been challenged in O.A. 221 of 2001 before the Ranchi Circuit Bench of this Tribunal, and which notification was set aside by order dated 13.11.2006 passed in that O.A. by the Ranchi Circuit Bench. The State Govt. had felt aggrieved by the said order of Ranchi Circuit Bench dated 13.11.2006, and had filed the Civil Writ Petition No. 2464 of 2006 before the Jharkhand High Court, Ranchi, and the Hon'ble High Court was pleased to dismiss the writ petition on 21.8.2009, holding further that it had not found any reason to interfere with the orders passed by the CAT, Circuit Bench, Ranchi. They, therefore, prayed that the orders of this Tribunal in O.A. No. 221 of 2001 Ranchi Circuit Bench dated 13.11.2006 in the case of Arun vs. U.O.I. and others had, thus, become final, and had to be applied as it is to the present case of the applicants in the State of Bihar also.

15. The arguments and counter arguments made before this Tribunal by the applicants as well as respondents have been



weighed and considered in detail.

16. In this case, while coming to the subject of deciding the equivalence of Non State Civil Services to the State Civil Services, the Govt. of Bihar had constituted an independent panel to go into the question of nature of functions of different services in order to suggest equivalence and have thereafter followed the equivalence as suggested by the Expert Committee. Even though the officers belonging to many services of the State Government may or may not have been selected by a common recruitment process, but once they are assigned to different services, and function in such services as officers at various levels, the type of work experience which they gain over the years is different in the case of each such service. The Indian Administrative Service is one of the Apex Services available at the State level, where the Administrative Officers of the State Administrative Services, who have performed similar nature of functions, albeit at a lower level, naturally have an advantage. It is with this in view that a very large proportion of the 1/3rd of the State's Cadre Strength in IAS is reserved for promotion from among the State Civil Services. It is expected that the officers

of such State Civil Services would have held posts performing such administrative/magisterial/quasi judicial and other responsibilities, which would qualify them to be able to perform the duties of an officer of Indian Administrative Service better after being promoted to that service. As has been laid down by the Hon'ble Supreme Court in Para 19 in T Sham Bhatt's case, the Non-SCS Officers must be discharging equivalent duties and responsibilities. Merely being placed in the same pay scale is of no avail in itself. Since the gamut of work experience gathered by the Officers of the Non-State Civil Services is entirely different, and they deal with different aspects of governance of the State Government, it cannot be said that they have also had a similar grooming for becoming eligible for selection to IAS. Up to a certain level of seniority, they may not have gathered sufficient administrative experience, and many of them may have never performed any duties and functions parallel to the required administrative, magisterial or quasi judicial experience, unless they have reached a certain stage of seniority in their respective services. Therefore, a level of seniority within their respective Services for determining the equivalence of Non State

Civil Services and State Civil Services is a very worthwhile concept, which has been followed by the State Governments all over India, and has not been set aside by the Hon'ble Supreme Court in T. Sham Bhatt's case, which had concerned itself with the grouping or clubbing together of Class II Services with the Class-I Services for determining the zone of consideration. In fact it has been held that such a declaration of equivalence of Non SCS Services is a sine qua non for the exercise of the power of selection for such appointment to I.A.S. If, while operating within the parameters as laid down by the Hon'ble Supreme Court in T. Sham Bhatt's case, the State Govt. of Bihar has prescribed level of seniority in Class-I Non State Civil Services, at which it considers that those officers of Class-I Non State Civil Services, would have acquired sufficient variety of work experience to enable them to be placed to be considered for Selection to IAS at par with the State Civil Services officers whose cases are considered for promotion to IAS, no fault whatsoever can be found with any such prescription. Therefore, the contentions of the applicants that the circular dated 21.4.2001 of Bihar Govt. is liable to be set aside as not being in



conformity with the findings of the Hon'ble Supreme Court in T. Sham Bhat's case is not acceptable, and it cannot be held that the said resolution amounts to a misuse of the exercise of powers of the State Govt., or that it is in any arbitrary or violative of Articles 14 and 16 of the Constitution of India in any manner whatsoever. In the case State of Sikkim vs. Surendera Prasad Sharma, the Hon'ble Supreme Court had held that in examining the challenge to the constitutionality of State action, based upon violation of Articles 14 and 16 of the Constitution, the emphasis must not only be on examining the "de jure equality" of persons grouped together, or compared to each other, but also on the "de facto equality" of persons so grouped together or compared to each other.

17. The contentions of the Id. counsel for the applicants in regard to the applicability of the decision of concurrent bench of

CAT, Circuit Bench at Ranchi in O.A. No. 221 of 2001 dated 13.11.2006, have also been gone into in detail. In paragraph 59

of that judgment, it was very clearly laid down that only the notification of Govt. of Jharkhand declaring equivalence of Non

SCS officers of Jharkhand belonging to Engineering Services in

the pay scale of Rs. 10,000-15,200 with that of the Deputy Collectors [6500-10500] was held to be bad in law, and was accordingly quashed and set aside, and it was directed that the matter may be considered in accordance with law and extant orders, and what had been discussed in that O.A. It is very clear that the benefit of operation of that order of the Ranchi Circuit Bench is not available to the present applicants in Bihar. While passing that order on 13.11.2006, the concurrent bench had discussed, but had not set aside the notification of the Bihar Government, which the Jharkhand Govt. had followed with some modification in the notification set aside by that Bench through that judgment. Therefore, there is no merit in the contentions of the applicants that Annexure-A/2, the notification of Bihar Government dated 21.4.2001, is bad in law in any respect whatsoever. The further contention of the applicants that the Hon'ble Jharkhand High Court having up-held that order of Ranchi Circuit Bench in O.A. No. 221 of 2001, would also ipso facto automatically affect the impugned notification of the Bihar Govt., is also not legally correct. The proceedings in Patna Bench of the Tribunal have to follow the interpretation of laws, and

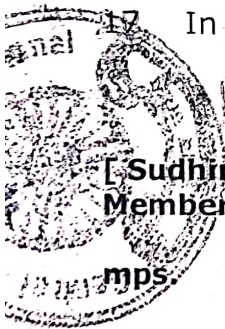
can be found against any such notification. Any such equivalence of duties and responsibilities would be impossible to be so notified in the absence of any specific reference to the pay scales of the respective posts, and cannot be notified in a vacuum, by themselves, on a stand alone basis. A comparison of the importance and responsibilities comparable to the posts of Deputy Collectors has to have a comparison of the pay scales as a beginning point, as is implied in the orders of the Hon'ble Supreme Court in T. Sham Bhatt's case also.

11. While the applicants have a case to be considered for selection to the IAS, they cannot claim any right of any such selection. If for any reason whatsoever, the State Govt. of Bihar has not found any officer among the Non State Civil Services suitable for the years 2006, 2007 and 2008 for being selected for appointment to the Indian Administrative Service, the applicants cannot claim as a matter of right that such appointments by selection against Non State Civil Service quota in these years ought to have been made compulsorily. As has been clarified by the UPSC in their reply affidavit, paragraphs 5.1 and 5.2 of Regulation 5[c] of IAS [Appointment by Selection] Regulation already provide that when either it is not practicable to convene a meeting of the Select Committee Meeting in order to prepare a Select List of Non State Civil Service candidates for

(57)

a particular year, or no Non SCS officers of a State are found to be suitable for such appointment by selection against the Non SCS quota in IAS for a particular year, those vacancies, therefore, would revert to the SCS quota vacancies. Obviously, this Regulation has been framed only with the contingency in mind that it should not be compulsory and binding for the State Government to unnecessarily suggest or recommend the names of Non SCS officers for selection for appointment to the IAS, when on the basis of the criteria properly prescribed and the available records, they are not able to find any such suitable officers fit for being recommended for such appointment by selection. The applicants have had a chance at such consideration, and have not been found fit on the basis of the criteria prescribed for such selection even by their own Departmental Screening Committee. Hence, they have no case now.

In view of this, the O.A. is rejected. No orders as to costs.



Sdf
[Sudhir Kumar]
Member [Admve.]

"True Copy"

Sdf
[Rekha Kumari]
Member [Judicial]

CERTIFIED THAT THIS IS A TRUE AND ACCURATE COPY OF THE DOCUMENT ORDER AS IN THE CASE FILE NO. OA/RAJCP/MA/PT NO. 199/2009 AND ALL THE MATTER APPEARING LEGALLY AND FAITHFULLY ORDER WITH NO MODIFICATION.

- A) Sl. No. of application: 84
B) Name of Applicant: Sunil Kumar
C) Date of Application: 21.1.20
D) Number of pages: 63 pages
E) Copying in: Urgent
F) Date of time for deposit of copy: 21.1.20
G) Date of Preparation of copy: 21.01.2020
H) Date of delivery of the copy to the applicant: 21.01.2020

[Signature]
Section Officer (J)
Central Administrative Tribunal
Patna Bench, Patna

[Signature]
21/01/2020

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10616 of 2010

1. Md. Abdul Mannan, S/O Late Haji Abdul Latif, R/O Mohiuddinpur, P.S. Habibpur, District- Bhagalpur, At Present Posted As Assistant Engineer , Engineer In Chief (Central's) Cell, Water Resources Department, Sinchai Bhawan, Patna Presently Residing At Y-2, Ashiana Nagar, P.O. Ashiana Nagar, P.S. Rajeev Nagar, District-Patna.
2. Singh Kumar, S/O Late Sri R.C.P. Singh, R/O J-89, P.C. Colony, Kankarbagh, P.S. Kankarbagh, District- Patna Presently Posted As S.D.O., Western Embankment Sub Division, Bhaluahi, Western Embankment Division, Nirmali, District- Supaul.

.... .. Petitioners

Versus

1. The Union of India through the Secretary, Department Of Personnel and Training, New Delhi.
2. The Union Public Service Commission, through Its Secretary, Dholpur House, Shahjehan Road, New Delhi.
3. The State Of Bihar, through the Chief Secretary, Govt. Of Bihar, Old Secretariat, Patna
4. The Secretary, Water Resources Department, Sinchai Bhawan, Govt. of Bihar, Patna.
5. The Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Old Secretariat, Patna.
6. The Joint Secretary (Management), Water Resources Department, Sinchai Bhawan, Govt. of Bihar, Patna.

.... .. Respondents

Appearance :

For the Petitioners : Mr. Y. V. Giri, Sr. advocate
Mr. Khatim Reza, advocate
Mr. Syed Firoz Raza, advocate

For the Respondents : Mr. Lalit Kishore, (AAG 3)
Mr. Piyush Lal, AC to AAG 3
Mr. Raghbir Ahsan (Asst. SG)

59

CORAM: HONOURABLE MR. JUSTICE SHIVA KIRTI SINGH
and
HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SHIVA KIRTI SINGH)

8 24-02-2012

Heard the parties. The orders under challenge are that of Central Administrative Tribunal, Patna Bench dated 22-12-2009 (Annexure-1) and notification by State Government dated 21-4-2001 (Annexure-2).

2. The earlier orders passed in this case indicate that petitioners have strongly relied upon judgement of Central Administrative Tribunal, Circuit Bench, Ranchi (annexure-35), as affirmed by a Division Bench of Jharkhand High Court by judgement dated 21-08-2009 (annexure-36) for advancing a submission that identical issues have been decided in favour of similarly situated employees of Jharkhand State and there was no good reason for taking a different view by the Central Administrative Tribunal, Patna Bench Patna in the impugned order dated 22-12-2009 in O.A. no. 199/2009 (annexure-1).

3. This court was informed at earlier occasions that the State of Jharkhand had preferred appeal before the Supreme Court against the judgement of the Jharkhand High Court contained in annexure-36 and hence, this court had kept the present matter pending as is apparent from our order passed on 31-8-2010. By that order certain interim directions were made for continuation of earlier interim order dated 3-8-2010. The SLP (Civil) No.

60

copy of that order is available on record as annexure-5 to I.A. No. 1138/2012 filed on behalf of the petitioners. From the order it appears that the Supreme Court heard the parties before allowing the prayer of the State of Jharkhand to withdraw the appeal. It was clarified that all interim orders would stand vacated and the Union Public Service Commission will be at liberty to declare the results which had been withheld on account of orders of that court.

4. It is not in dispute that the State of Bihar had issued a resolution dated 21-04-2001 (Annexure-2) declaring equivalence of posts under Non civil services of the State with that of Deputy Collector in connection with IAS (Appointment by Selection) Regulations, 1997. Following the said resolution the State of Jharkhand also issued similar resolution dated 17-01-2003. Admittedly, equivalence notified by the State of Jharkhand was verbatim reproduction of the resolution of State of Bihar. The resolution of State of Jharkhand like the resolution of State of Bihar determined the equivalence of posts of Civil Services other than Forest Service, Police Service and Administrative Service (Non State Civil Services) with the post of Deputy Collector of the State Civil Services by providing equivalence with posts in the pay scale of Rs. 10,000/- 15,200/- or higher scales and only on acquiring minimum experience of eight years, the incumbents would be entitled for consideration like a Deputy Collector in the State Civil Services for recruitment to IAS under the IAS (Appointment by Selection) Regulations, 1997.

5. Some officers who had subsequently been allocated to State of Jharkhand but claimed right of consideration from earlier

61

Ranchi. Their challenge to the resolution succeeded and the Tribunal by order dated 13-01-2006 (annexure-35) held that the impugned equivalence was contrary to the principles indicated by the Supreme Court in the case of **T. Sham Bhat Vs. Union of India & Anr.** reported in (1994) Supp. (3) SCC 340. The Tribunal which considered the submissions advanced on behalf of State of Jharkhand as well as State of Bihar which was also one of the parties, found the equivalence to be contrary to the principles laid down by the Supreme Court which required consideration of pay scales as well as duties and responsibilities of the posts in question. Hence, the Tribunal declared that the equivalence of non SCS officers belonging to Engineering Service in the pay scale of Rs. 10,000/- 15,200/- with that of Deputy Collectors who are in the scales of Rs. 6500/- 10,500/- was bad in law. Relevant resolution was quashed and the matter was directed to be reconsidered in accordance with law and the order of the Tribunal. The exercise was to be completed within three months from the receipt of that order. The State of Jharkhand challenged the judgement of the Tribunal by filing a writ petition before the Jharkhand High Court bearing WP (C) No. 2464/2006. That writ petition was heard by a Division Bench and by an exhaustive and well considered judgement the Division Bench concurred with the views of the Tribunal and dismissed the writ petition by order dated 21-08-2009 (annexure-36).

6. Learned counsel for the State of Bihar tried to re-agitate the issues already considered and decided by the Circuit Bench of the Tribunal and the Jharkhand High Court by placing

62

Jharkhand High Court had fallen in error in deciding the equivalence only on consideration of pay scales.

7. In the light of aforesaid submission we were taken through the relevant paragraphs of the judgement of the Tribunal as well as of the High Court by Mr. Y. V. Giri, learned senior counsel appearing on behalf of the petitioners. From paragraphs 16, 19, 20, 27, 30, 40, 45, 47, 48 and 52 to 54 of judgement of the Tribunal and from paragraphs 30 and 31 of the judgement of the Jharkhand High Court it was shown that the correctness of equivalence was decided not only on the basis of pay scales but also on the basis of responsibilities and duties of the post. Hence, on merits we do not find any error in the views of the Tribunal in its judgement and order contained in annexure-35 and of the Jharkhand High Court contained in annexure-36 so as to take a different view.

8. We also find substance in the submission advanced by Mr. Giri that State of Bihar was a party to the proceeding before the Circuit Bench of the Tribunal as well as before the Jharkhand High Court and it has accepted their judgements and orders inspite of the decision being contrary to the stand of the State of Bihar and hence, the issues decided in those judgements should be held to be binding upon the State of Bihar also.

9. In view of aforesaid discussions and findings, we find that the Central Administrative Tribunal, Patna Bench has taken an erroneous view in the matter by refusing to follow the judgement which the same Tribunal rendered at Circuit Bench, Ranchi earlier. There was no good reason for the Patna Bench to

Jharkhand High Court dated 21-08-2009 was also cited before the Patna Bench of the Tribunal but it was not accorded the value which it deserved. The views of another High Court may not be binding upon the Patna Bench of the Tribunal but the judgement of the Jharkhand High Court definitely had persuasive value and good reasons were required to take a contrary view. We do not find any good reason in the impugned judgement whereby challenge to a similar resolution of the State of Bihar has been rejected only by observing in paragraph 18 that it is of utmost importance to compare the nature of posts and the duties and responsibilities discharged in such posts by the Non SCS officers for judging their relative or comparative ability and merit. In this regard we may only refer to annexures- 8 and 9 to which our attention was drawn by Mr. Giri. Annexure-8 is a letter written by Joint Secretary, Water Resources Department, Govt. of Bihar to the Secretary of Personnel and Administrative Reforms Department, Govt. of Bihar on 15-02-2007. It refers to the representation filed by Members of the Engineering Service including petitioners and points out that for getting the pay scale of Rs. 10,000/- 15,200/- an Engineer entering into such service is required to serve for minimum 20 years and thereafter he has to wait for further eight years in view of equivalence decided by the State of Bihar. The Tribunal has also noticed that the pay scale of Rs. 10,000/- 15,200/- meant for Executive Engineers may not be appropriate because Executive Engineers as per past practice were posted in the districts whereas Deputy Collectors in eight years period are posted only to shoulder responsibilities at subdivision

the petitioners belong and five other services namely Bihar Administrative Service, Bihar Police Service, Bihar Finance Service, Bihar Health Service and Bihar Veterinary Service have been declared to be premier services for which the initial pay scale shall be same, i.e., of Rs. 8,000/- 13,500/-. We have referred to the aforesaid materials only to indicate that on going through the materials on record, we are also of the view that the Jharkhand High Court has properly considered the materials and remanded the matter. The State of Bihar should also reconsider the matter of equivalence in view of observations and directions contained in the judgements of the Circuit Bench of Tribunal and of the Jharkhand High Court contained in annexures- 35 and 36.

10. Accordingly, we quash the notification relating to equivalence dated 21-04-2001 contained in annexure-2 as well as judgement of the Central Administrative Tribunal, Patna Bench dated 22-12-2009 (annexure-1) and direct the State of Bihar to reconsider the matter of equivalence in the light of all the relevant materials and as per law within three months. The time limit indicated above should be adhere to in its letter and spirit because delay may adversely affect several eligible persons who may loose the chance of consideration only on account of further delay. If the petitioners are found eligible, their cases may also be considered without delay.

The writ petition is allowed to the aforesaid extent. There shall be no order as to costs.

(Shiva Kirti Singh, J)

(Madhava Kr. Trivedi, J)

भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 के आलोक में गैर-राज्य असैनिक सेवा के पदों की उपसमाहर्ता पद से समकक्षता पर पुनर्विचार हेतु सामान्य प्रशासन विभाग, बिहार के संकल्प संख्या-8123 दिनांक 15.07.2011 द्वारा गठित समिति की बैठक दिनांक 07.09.2011 की कार्यवाही

समिति द्वारा भारतीय प्रशासनिक सेवा (नियुक्ति) नियमावली, 1954, भारतीय प्रशासनिक सेवा (प्रोत्रति द्वारा नियुक्ति) विनियम, 1955 तथा भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 के संगत प्रावधानों पर विचार किया गया। भारतीय प्रशासनिक सेवा (नियुक्ति) नियमावली, 1954 के नियम-8 (2) में यह प्रावधान है कि केंद्र सरकार विशेष परिस्थिति में तथा राज्य सरकार की अनुशंसा पर ऐसे विनियम के अनुरूप, जो केंद्र सरकार द्वारा आयोग तथा राज्य सरकार के परामर्श से बनाये गये हों, भा0प्र0से0 में ऐसे व्यक्ति की नियुक्ति कर सकता है, जो उत्कृष्ट गुण तथा योग्यता रखते हों तथा राज्य सरकार के मामले में सेवा कर रहे हों और राज्य सिविल सेवा के सदस्य न हों, किंतु अधिष्ठायी हैसियत से राजपत्रित पद धारण करते हों।

2. भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 के विनियम-4 के आलोक में गैर-राज्य असैनिक सेवा के वैसे पदाधिकारी चयन द्वारा नियुक्ति हेतु विचारणीय है, जो-

- (i) बिहार प्रशासनिक सेवा के पदाधिकारी नहीं हैं,
- (ii) उत्कृष्ट गुण एवं योग्यता के हैं
- (iii) चयन वर्ष की पहली जनवरी को 54 वर्ष से अधिक उम्र नहीं है तथा
- (iv) अधिष्ठायी हैसियत से राजपत्रित पदों पर लगातार आठ वर्षों का अनुभव हो तथा इस उद्देश्य से वह पद राज्य सिविल सेवा के उपसमाहर्ता के समतुल्य घोषित हो।

3. इसके पूर्व वर्ष 2000 में श्री बी0 बी0 लाल, भा0प्र0से0 तत्कालीन निदेशक, एल0 एन0 मिश्रा, आर्थिक एवं सामाजिक विकास संस्थान की अध्यक्षता में सात सदस्यीय (वरीय भा0प्र0से0) गठित समिति की अनुशंसा के आलोक में सम्यक् विचारोपरांत गैर-राज्य असैनिक सेवा के पदों की उपसमाहर्ता पद की समकक्षता विभागीय संकल्प संख्या-2178 दिनांक 21.04.2001 द्वारा निम्नवत् घोषित की गयी थी-

"बिहार वन सेवा, बिहार आरक्षी सेवा एवं बिहार प्रशासनिक सेवा से भिन्न अन्य राज्य सेवाओं एवं संवर्गों के ₹ 10,000-15,200/- के वेतनमान तथा उच्चतर वेतनमान वाले पदों पर कार्यरत पदाधिकारियों के कर्तव्य तथा दायित्वों को देखते हुए इन वेतनमान के पदों को भा0प्र0से0 (चयन द्वारा नियुक्ति) विनियम, 1997 की धारा-4 के उद्देश्यार्थ राज्य सिविल सेवा के उपसमाहर्ता के समकक्ष घोषित किया जाए। इन वेतनमान वाले पदों एवं इससे उच्चतर वेतनमान वाले पदों पर कुल मिलाकर कम से कम आठ वर्षों की सेवा होने के उपरांत ही संबंधित पदाधिकारी इस विनियम के अंतर्गत भारतीय प्रशासनिक सेवा में चयन द्वारा नियुक्त होने के विचार क्षेत्र में आ सकते हैं।"

4. उल्लेखनीय है कि गैर-राज्य असैनिक सेवा के पदधारकों की भा0प्र0से0 में चयन द्वारा नियुक्ति के निमित्त राज्य असैनिक सेवा के पदाधिकारियों से निर्धारित समकक्षता को माननीय उच्च न्यायालय, झारखंड, रांची में वाद-WP (C)-2464/2006 दायर कर चुनौती दी गयी थी। सुनवाई के उपरांत माननीय उच्च न्यायालय, झारखंड ने राज्य सरकार द्वारा निर्धारित समकक्षता को निरस्त करने का आदेश पारित किया था। WP (C)-2464/2006 में माननीय उच्च न्यायालय, झारखंड द्वारा पारित फैसले के विरुद्ध झारखंड राज्य ने माननीय सर्वोच्च न्यायालय में सिविल अपील संख्या-2243/2010 दाखिल की है। यह सम्प्रति विचाराधीन है और अंतिम निर्णय प्रतीक्षित है।

अभिप्रमाणित/सत्यापित



(कन्हैया लाल साह)

क सूचना पदाधिकारी सह अवर सचिव
सामान्य प्रशासन विभाग, बिहार

विभाग, बिहार) द्वारा दाखिल सी०डब्ल्यू०जे०सी० संख्या-10616/2010 में माननीय पटना उच्च न्यायालय द्वारा दिनांक 03.08.2010 को पारित अंतरिम आदेश द्वारा उक्त संकल्प में समकक्षता संबंधी निर्णय के कार्यान्वयन पर अगले आदेश तक रोक लगा दी गयी है तथा आवेदकों द्वारा धारित पद-सहायक अभियंता, जल संसाधन विभाग, जिसका वेतनमान उपसमाहर्ता के समान है, को भा०प्र०से० (चयन द्वारा नियुक्ति) विनियमनापली, 2007 के अनुसार नियुक्ति हेतु विचारित करने का आदेश दिया है। तत्पश्चात् दिनांक 31.08.2010 को अगली सुनवाई में उस स्थगन आदेश को बरकरार रखा गया। किंतु, माननीय न्यायालय के आदेश में यह भी स्पष्ट किया गया है कि उक्त अंतरिम आदेश माननीय सर्वोच्च न्यायालय में दायर अपील में निर्णय के अधीन होगा।

5 (ii) आवेदकों द्वारा दाखिल आई० ए० संख्या-8741/2010 में दिनांक 08.10.2010 को सुनवाई हुई, जिसमें निम्नांकित आदेश पारित किया गया-

"If the occasion has arisen for considering the vacancies of the year 2010, then the exercise of consideration should be done without any delay."

6. चूंकि गैर-राज्य असैनिक सेवा के लिए दो रिक्तियाँ भारत सरकार के द्वारा निर्धारित की जा चुकी हैं, अतः इस संबंध में अग्रतर कार्रवाई की जानी है, जिसके अंतर्गत माननीय उच्च न्यायालय के आदेश के आलोक में विभागीय संकल्प संख्या-2178 दिनांक 21.04.2001 में पूर्व निर्धारित समकक्षता संबंधित मापदंड के निर्णय पर समिति द्वारा पुनर्विचार किया गया।

7. समिति के सदस्य, श्री के० सी० साहा विकास आयुक्त द्वारा यह मत प्रकट किया गया कि बिहार प्रशासनिक सेवा के पदाधिकारियों की भा०प्र०से० में प्रोन्नति द्वारा नियुक्ति की पात्रता यद्यपि आठ वर्षों की सेवा के पश्चात् हो जाती है, किंतु वास्तविक रूप से वे लगभग 20-21 वर्षों की सेवावधि वाले विचारण सूची में आ पाते हैं क्योंकि विचारण सूची वरीयता के आधार पर बनती है जैसे चयन वर्ष 2006 ए तथा 2007 के लिए चयन सूची में शामिल किये जाने हेतु बि०प्र०से० के पदाधिकारी 25-27वीं बैच के (वर्ष 1979 तथा 1980 के) हैं, जिनकी बिहार प्रशासनिक सेवा में सेवावधि 30-31 वर्ष हो चुकी है।

7 (ii) यदि गैर-राज्य असैनिक सेवा के पदाधिकारियों को प्रवेश स्तर पर ही बिहार प्रशासनिक सेवा के समकक्ष घोषित कर दिया जाता है तो गैर-राज्य असैनिक सेवा के पदाधिकारी भा०प्र०से० में चयन द्वारा नियुक्ति हेतु आठ वर्षों की सेवावधि पूर्ण करने के पश्चात् ही पात्र हो जायेंगे। इसके लिए बि०प्र०से० के पदाधिकारियों की तरह वरीयता के आधार पर विचारण सूची में आने की प्रतीक्षा नहीं करनी पड़ेगी। इस तरह 9-10 वर्षों की सेवावधि पूरी करने के बाद ही गैर-राज्य असैनिक सेवा के पदाधिकारी भा०प्र०से० में चयन द्वारा नियुक्त हो सकते हैं जिसके पश्चात् के जिला में जिला पदाधिकारी के पद पर पदस्थापित होंगे और उनसे काफी वरीय बि०प्र०से० के जिला के अपर समाहर्ता या उप विकास आयुक्त के पद पर पदस्थापित पदाधिकारी उनके अधीन हो जायेंगे। इस तरह बि०प्र०से० के पदाधिकारी के मनोबल पर निश्चित रूप से प्रतिकूल प्रभाव पड़ेगा। साथ ही, व्यवस्था में विषमता एवं distortion भी हो जायेगा।

7 (iii) श्री साहा द्वारा इसपर भी जोर दिया गया कि गैर-राज्य असैनिक सेवा के पदाधिकारियों को प्रारंभिक स्तर पर प्रशासन का अनुभव नहीं होता है। अपनी सेवा/संवर्ग में अगले स्तर की प्रोन्नति के बाद ही वे कतिपय प्रशासनिक दायित्वों का संपादन करते हैं।

उक्त स्थिति में ही पूर्व में राज्य सरकार द्वारा अन्य राज्य सेवाओं एवं संवर्गों के ₹ 10,000-15,200/- के वेतनमान तथा उच्चतर वेतन वाले पदों पर कार्यरत पदाधिकारियों तथा दायित्वों को देखते हुए राज्य सिविल सेवा के उपसमाहर्ता के समकक्ष घोषित किया गया था, जो सरकार का सुविचारित निर्णय था।

अभिप्रमाणित/सत्यापित

(कन्हैया लाल साह)

7 (iv) श्री साहा द्वारा कहा गया कि उक्त निर्णय में किसी परिवर्तन की आवश्यकता नहीं है । उनके द्वारा यह भी कहा गया कि झारखंड सरकार द्वारा दायर अपील माननीय उच्चतम न्यायालय के विचाराधीन है । उक्त निर्णय की प्रतीक्षा की जाय ।

7 (v) जबकि दूसरे सदस्य, श्री अफजल अमानुल्लाह द्वारा कहा गया कि बिहार अभियंत्रण सेवा या अन्य गैर-राज्य असैनिक सेवा के भी कुछ पदाधिकारी भी काफी योग्य हैं । यदि उन्हें उनकी योग्यता के आधार पर भा0प्र0से0 में चयन द्वारा नियुक्ति का अवसर मिलता है तो वे अपनी क्षमता सिद्ध कर सकते हैं । कई अन्य गैर-राज्य असैनिक सेवा को प्रीमियर सेवा घोषित कर उनका वेतनमान राज्य असैनिक सेवा (बि0प्र0से0) के समकक्ष निर्धारित किया जा चुका है । इस तरह राज्य सरकार द्वारा उन सेवाओं को भी बि0प्र0से0 के समकक्ष माना जा चुका है । अतः इस स्तर पर कोई भेद करना समीचीन नहीं होगा ।

7 (vi) श्री अमानुल्लाह द्वारा यह भी कहा गया कि जहाँ तक प्रशासनिक अनुभव का प्रश्न है, भा0प्र0से0 में चयन के द्वारा नियुक्ति के पश्चात् उनके प्रशिक्षण की व्यवस्था की जा सकती है, फिर विभागों द्वारा चयन हेतु नाम अनुशंसित करने के पूर्व उनकी योग्यता के साथ वरीयता को ध्यान में रखा जा सकता है । गैर-राज्य असैनिक सेवा के पदाधिकारियों की भा0प्र0से0 में नियुक्ति चयन द्वारा होती है, यानी उन्हें इसके लिए interview face करना होता है जिससे स्पष्ट है कि अयोग्य एवं अक्षम पदाधिकारी भा0प्र0से0 के लिए चयनित नहीं हो पायेंगे ।

7 (vii) श्री अमानुल्लाह द्वारा कहा गया है कि जहाँ तक व्यवस्था (system) में distortion का प्रश्न है, यह कुछ वर्षों के लिए सीमित संख्या के लिए ही है । बि0प्र0से0 संवर्ग के पुनर्गठन के पश्चात् उनकी संख्या बल को काफी कम किया जा चुका है, अतः भविष्य में उन्हें भी प्रोन्नति के लिए बीस या इससे अधिक वर्षों का इंतजार नहीं करना पड़ेगा ।

7 (viii) श्री अमानुल्लाह द्वारा यह भी बताया गया कि माननीय उच्च न्यायालय के निर्देश के आलोक में पूर्व में निर्धारित समकक्षता संबंधित संकल्प को stay मानते हुए गैर-राज्य असैनिक सेवा के पदाधिकारियों की चयन द्वारा नियुक्ति हेतु शीघ्र प्रक्रिया प्रारंभ नहीं की जाती है तो माननीय न्यायालय के आदेश की अवमानना की स्थिति बन जाती है, क्योंकि भारत सरकार द्वारा गैर-राज्य असैनिक सेवा के लिए वर्ष 2010 हेतु दो रिक्तियाँ निर्धारित की जा चुकी हैं ।

8. श्री दीपक कुमार, प्रधान सचिव, सामान्य प्रशासन विभाग द्वारा कहा गया कि भारत सरकार द्वारा गैर-राज्य असैनिक सेवा के पदाधिकारियों की चयन द्वारा भा0प्र0से0 में नियुक्ति हेतु निर्धारित दो रिक्तियों के विरुद्ध नियुक्ति हेतु संपूर्ण कार्रवाई दिनांक 31.12.2011 तक संपन्न नहीं होती है तो वैसी स्थिति में ये दो रिक्तियाँ माननीय कैंट, प्रधान बेंच, नई दिल्ली में श्री परशुराम मिश्रा द्वारा दाखिल ओ0 ए0 संख्या-1257/2009 में दिनांक 03.09.2009 के निर्णय के आलोक में राज्य असैनिक सेवा के कोटे में जोड़नी होगी । अतः इस संबंध में शीघ्र निर्णय आवश्यक है ।

9. उक्त वर्णित स्थिति में सर्वसम्मति से यह अनुशंसा की गयी कि कंडिका-4 एवं 5 के आलोक में कंडिका-6 के मद्देनजर तत्काल विचार करने हेतु राज्य सरकार की बाध्यता है या नहीं, इस बिंदु पर वैधिक परामर्श प्राप्त कर लिया जाय ।

(विनोद कुमार सिन्हा)
सचिव, विधि विभाग

(अफजल अमानुल्लाह)
प्रधान सचिव, जल संसाधन विभाग

(प्रत्युष अमृत)
सचिव, पथ निर्माण विभाग

(के0 सी0 साहा)
विकास आयुक्त, बिहार

अभिप्रमाणित/सत्यापित

(दीपक कुमार)

प्रधान सचिव, सामान्य प्रशासन विभाग

(अनूप मुखर्जी)

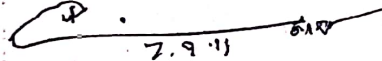
मुख्य सचिव, बिहार

भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 के आलोक में गैर-राज्य
असैनिक सेवा के पदों की उपसमाहर्ता पद से समकक्षता पर पुनर्विचार हेतु सामान्य
प्रशासन विभाग, बिहार के संकल्प संख्या-8123 दिनांक 15.07.2011 द्वारा मुख्य सचिव
की अध्यक्षता में गठित समिति में विचार हेतु दिनांक 07.09.2011 की उपस्थिति

46

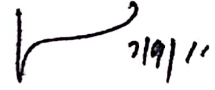
68

1. श्री के० सी० साहा,
विकास आयुक्त, बिहार ।


7.9.11

2. श्री अशोक कुमार सिन्हा,
कृषि उत्पादन आयुक्त,
कृषि विभाग, बिहार, पटना ।

3. श्री अफजल अमानुल्लाह,
प्रधान सचिव,
जल संसाधन विभाग, बिहार, पटना ।


7/9/11


4. श्री अमरजीत सिन्हा,
प्रधान सचिव,
स्वास्थ्य विभाग, बिहार, पटना ।

5. श्री रामेश्वर सिंह,
प्रधान सचिव,
वित्त विभाग, बिहार, पटना ।

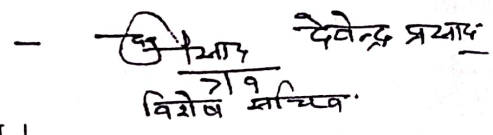
रामेश्वर सिंह
वित्त विभाग
बिहार


7.9.11

6. श्री दीपक कुमार,
प्रधान सचिव,
सामान्य प्रशासन विभाग, बिहार, पटना ।


7/9

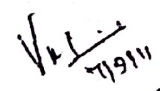
7. श्री सुधीर कुमार,
सचिव,
पशु एवं मत्स्य संसाधन विभाग, बिहार, पटना ।


देवेन्द्र प्रसाद
7/9
विशेष सचिव

8. श्री प्रत्यय अमृत,
सचिव,
पथ निर्माण विभाग, बिहार, पटना ।


7/9

9. श्री विनोद कुमार सिन्हा,
सचिव,
विधि विभाग, बिहार, पटना ।


7/9/11

अभिप्रमाणित/सत्यापित


(कन्हैया लाल साह)
क सूचना पदाधिकारी सह अब सचिव
सामान्य प्रशासन विभाग, बिहार, पटना

विषय: भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 के अंतर्गत गैर-राज्य असैनिक सेवा के पदों को उपसमाहर्ता के पद की समकक्षता संबंधी अधिघोषणा के संबंध में।

माननीय कैंट. (पटना पीठ), रांची द्वारा ओ0ए0 संख्या-221/01 तथा माननीय उच्च न्यायालय, पटना द्वारा सी0डब्ल्यू0जे0सी0 संख्या-10616/2010 में पारित न्यायादेश में विषयगत विभागीय संकल्प संख्या-2178 दिनांक 21.04.2001 को निरस्त किये जाने के आलोक में उक्त विभागीय संकल्प को निम्न प्रकार से संशोधित किया जाता है:-

1. उक्त संकल्प की कंडिका-1 के द्वितीय पारा में अंकित-

'बिहार वन सेवा', 'बिहार आरक्षी सेवा' एवं 'राज्य प्रशासनिक सेवा' से भिन्न अन्य राज्य सेवाओं एवं संवर्गों के 10,000-15,200/-रूपए के वेतनमान तथा उच्चतर वेतनमान वाले पदों पर कार्यरत् पदाधिकारियों के कर्तव्य तथा दायित्वों को देखते हुए इन वेतनमान के पदों को भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 की धारा-4 के उद्देश्यार्थ राज्य सिविल सेवा के उपसमाहर्ता के समकक्ष घोषित किया जाए। इस वेतनमान वाले पदों एवं इससे उच्चतर वेतनमान वाले पदों पर कुल मिलाकर कम-से-कम आठ वर्षों की सेवा होने के उपरान्त ही संबंधित पदाधिकारी इस विनियम के अन्तर्गत भारतीय प्रशासनिक सेवा में चयन द्वारा नियुक्त होने के विचार क्षेत्र में आ सकते हैं।

के स्थान पर

'बिहार वन सेवा', 'बिहार आरक्षी सेवा' एवं 'राज्य प्रशासनिक सेवा' से भिन्न अन्य राज्य सेवाओं एवं संवर्गों के 8,000-13,500/-रूपये का अपुनरीक्षित वेतनमान (पुनरीक्षित वेतनमान पे0 बैंड-3, रू0 15,600- 39,100+ग्रेड पे0-रू0 5,400/-) तथा उच्चतर वेतनमान के पदों को भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 की धारा-4 के उद्देश्यार्थ राज्य सिविल सेवा के उपसमाहर्ता के पदों के समकक्ष घोषित किया जाय। इस वेतनमान वाले पदों एवं इससे उच्चतर वेतनमान वाले पदों पर कुल मिलाकर कम-से-कम आठ वर्षों की सेवा होने के उपरान्त ही संबंधित पदाधिकारी इस विनियम के अन्तर्गत भारतीय प्रशासनिक सेवा में चयन द्वारा नियुक्त होने पर विचार क्षेत्र में आ सकते हैं।

2. यह निर्णय तात्कालिक प्रभाव से लागू माना जायेगा।



आदेश:-

70

आदेश है कि सर्व-साधारण की जानकारी के लिए इसे राजकीय गजट में प्रकाशित किया जाय एवं इसकी प्रति सभी संबंधित को उपलब्ध करायी जाय।

बिहार राज्यपाल के आदेश से,

ह0/-

(आनन्द बिहारी प्रसाद)

सरकार के संयुक्त सचिव

ज्ञापांक : 1/सी0-1019/2011 (खंड-1)-सा0प्र0-

/पटना, दिनांक :

प्रतिलिपि-अधीक्षक, ई गजट कोषांग, वित्त विभाग, बिहार, पटना को संकल्प की दो प्रति एवं तत्संबंधी सी0डी0 के साथ राजपत्र के असाधारण अंक में प्रकाशनार्थ तथा इसकी 500 (पांच सौ) मुद्रित प्रतियाँ सामान्य प्रशासन विभाग, बिहार, पटना (प्रशाखा-1) को उपलब्ध कराने हेतु प्रेषित।

ह0/-

सरकार के संयुक्त सचिव

ज्ञापांक : 1/सी0-1019/2011 (खंड-1)-सा0प्र0-4900 /पटना, दिनांक : 2.4.12.

प्रतिलिपि-राज्यपाल के प्रधान सचिव/सरकार के सभी विभाग/सभी विभागाध्यक्ष/विकास आयुक्त/सदस्य, राजस्व पर्वट/सभी प्रमंडलीय आयुक्त/सभी जिला पदाधिकारी/सामान्य प्रशासन विभाग के सभी पदाधिकारियों/प्रशाखाओं को सूचना एवं आवश्यक कार्रवाई हेतु प्रेषित।

सरकार के संयुक्त सचिव



बिहार गजट

असाधारण अंक

बिहार सरकार द्वारा प्रकाशित

(सं० पटना 12)

30 पौष 1930 (श०)
पटना, मंगलवार, 20 जनवरी 2009

संख्या-3ए-2-वे०पु०-04/2009-363 वि(2)

वित्त विभाग

संकल्प

17 जनवरी 2009

राज्य सरकार ने निम्नलिखित प्रीमियर राज्य सेवाओं को ₹० 8,000-13,500 का प्रवेश वेतनमान प्रदान करने का निर्णय लिया है :-

1. बिहार प्रशासनिक सेवा
 2. बिहार पुलिस सेवा
 3. बिहार वित्त सेवा
 4. बिहार स्वास्थ्य सेवा
 5. बिहार अभियंत्रण सेवा
 6. बिहार वेटेनरी सेवा।
2. इन सेवाओं के मूल कोटि के पदाधिकारियों का वेतन दिनांक 01.01.2006 को वैचारिक रूप से अपुनरीक्षित वेतनमान ₹० 8,000-13,500 में निर्धारित करते हुए पुनरीक्षित वेतन संरचना में औपबंधिक रूप से ऐ-बैंड-3 के अंतर्गत ग्रेड वेतन ₹० 5,400 प्रदान किया जायेगा। इससे संबंधित फिटमेंट तालिका अनुलग्नक-1 पर उपलब्ध है। उत्क्रमित अपुनरीक्षित वेतनमान में वेतन निर्धारण का लाभ अनुमान्य नहीं होगा, बल्कि 01.01.2006 को प्राप्त मूल वेतन के आधार पर ही नई वेतन संरचना में औपबंधिक रूप से वेतन निर्धारित किया जायेगा।
3. वेतन पुनरीक्षण, बकाया भुगतान एवं पुनरीक्षित वेतन के औपबंधिक भुगतान की तिथि एवं प्रक्रिया वित्त विभाग के संकल्प संख्या-3ए-2-वे०पु०-04/09-362वि(2) दिनांक 17.01.2009 द्वारा निर्धारित की गई है जो इन सेवाओं के सदस्यों पर भी लागू होगी।

4. इस निर्णय को कार्यान्वित करने के क्रम में कुछ संवर्गों को पुनर्गठित करने की भी आवश्यकता होगी। इस संबंध में आवश्यक अनुशासन समर्पित करने के लिए वेतन समिति को अधिकृत किया जाता है।

आदेश:- आदेश दिया जाता है कि इस संकल्प को बिहार राजपत्र के अगले असाधारण अंक में प्रकाशित किया जाए।

बिहार राज्यपाल के आदेश से.

अरूनीश चावला,

अपर वित्त आयुक्त।

प्रतिलिपि- महालेखाकार, बिहार, वीरचन्द्र पटेल पथ, पटना को सूचना एवं आवश्यक कार्रवाई हेतु प्रेषित।
प्रतिलिपि- सभी विभाग/सभी विभागाध्यक्ष/सभी प्रमंडलीय आयुक्त/सभी जिला पदाधिकारी/अवर सचिव,
वैयक्तिक दावा निर्धारण कोषांग, वित्त विभाग/सभी कोषागार पदाधिकारी/सभी उप-कोषागार
पदाधिकारी/सभी जिला लेखा पदाधिकारी को सूचना एवं आवश्यक कार्रवाई हेतु प्रेषित।
प्रतिलिपि- अध्यक्ष/सचिव एवं सदस्य सचिव, वेतन समिति, बिहार, पटना को सूचनार्थ प्रेषित। अनुरोध है
इस संबंध में आवश्यक कार्रवाई करने की कृपा की जाय।

अरूनीश चावला,

अपर वित्त आयुक्त।

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अनुलग्नक - 1

Pre-Revised Scale 8000-275-13500		Revised Pay Band + Grade Pay PB-3 Rs.15600-39100 + Rs.5400	
Pre-Revised Basic Pay	Pay in the Pay Band	Grade Pay	Revised Basic Pay
6,000	15,600	5,400	21,000
8,275	15,600	5,400	21,000
8,550	15,910	5,400	21,310
8,825	16,420	5,400	21,820
9,100	16,930	5,400	22,330
9,375	17,440	5,400	22,840
9,650	17,950	5,400	23,350
9,925	18,470	5,400	23,870
10,200	18,980	5,400	24,380
10,475	19,490	5,400	24,890
10,750	20,000	5,400	25,400
11,025	20,510	5,400	25,910
11,300	21,020	5,400	26,420
11,575	21,530	5,400	26,930
11,850	22,050	5,400	27,450
12,125	22,560	5,400	27,960
12,400	23,070	5,400	28,470
12,675	23,580	5,400	28,980
12,950	24,090	5,400	29,490
13,225	24,600	5,400	30,000
13,500	25,110	5,400	30,510
13,775	25,630	5,400	31,030
14,050	26,140	5,400	31,540
14,325	26,650	5,400	32,050

अरुनीश चावला,
अपर वित्त आयुक्त।

अधीक्षक, सचिवालय मुद्रणालय,
बिहार, पटना द्वारा प्रकाशित एवं मुद्रित।
बिहार गजट (असाधारण) 12-571+1000-डी0टी0पी0।

अभिप्रमाणित/सत्यापित
वेदिका

(कन्हैया लाल साह)
क सूचना पदाधिकारी सह अवर सचिव,
आयुक्त प्रशासन विभाग, बिहार, पटना

Annexure-8 Series

Bihar Administrative Service Association

North of Income Tax Golamber, Nehru Marg, Patna-800001

(Registration No-663/2003)

Website: basabihar.com, E-mail Id: infobasa1@gmail.com

(74)

Shashank Shekhar Sinha
President

Mob. No.- 9334118192



Anil Kumar
General Secretary

Mob. No.- 9431409463

Vice President

Md. Moezuddin
9304951990

Ajay Kumar
9835737317

Joint Secretary
Subodh Kumar
7979919465

Gopal Sharan
8210342042

Treasurer
Sunil Kumar Tiwary
9431085120

Joint Treasurer
Mona Jha
9430881025

Memo No

Date

To,

Hon'ble Chief Minister,
Govt. of Bihar, Patna.

Sub:- **Quashing of the General Administration Department, Bihar circular no.-4900 dated 02-04-2012 issued against the letter and spirit of IAS (Appointment by Selection) Regulations, 1997. Discontinuation of Promotion of Non-SCS to IAS through appointment by Selection and to accelerate the procedure to fill up the large vacancy of IAS by Promotion of SCS/BAS officer under Rule 8(1) of IAS (Recruitment) Rules 1954.**

Sir,

With reference to the above mentioned different subjects, firstly, we would like to draw your kind attention towards the rule 8 of IAS (Recruitment) Rule, 1954 which deals with the provision of recruitment of IAS by Promotion or Selection for appointment to State and Joint Cadre. **This rule was framed immediately after Independence in 1954 when many states of India didn't have the sufficient number of State Civil Service Officers. As a stop gap arrangement to meet the short-fall of requisite number of directly recruited IAS officers, provision for appointment of IAS by selection was incorporated in IAS (Recruitment) Rule, 1954. It is more evident from the reading of the first line of rule 8(2) of the said rule which reads as-"The Central Government may, in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Governments and the Commission, from time to time, make, recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service or that State (but who holds a gazetted post in a substantive capacity)."**

Bihar Administrative Service Association

North of Income Tax Golamber, Nehru Marg, Patna-800001
(Registration No-663/2003)

Website: basabihar.com, E-mail Id: infobasa1@gmail.com

Shashank Snekhhar Sinha
President

Mob. No.- 9334118192



Anil Kumar
General Secretary
Mob. No.- 9431409463

Vice President
Md. Moezuddin
9304951990

Ajay Kumar
9835737317

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Subodh Kumar
7979919465

Gopal Sharan
8210342042

Treasurer
Sunil Kumar Tiwary
9431085120

Joint Treasurer
Mona Jha
9430881025

Memo No _____

Date _____

2.The word "may" used in the said rule itself explains the intention of law maker explicitly that it is not mandatory and it can be used when special circumstances arises. In other words , when eligible SCS officers are available for promotion to IAS , this provision of recruitment of IAS by Selection should not be used.

3.The prevailing formula of promotion to IAS officer and present cadre strength of IAS are as follows:

(a) (Total Strength of IAS in State-Number of Training Reserve)*33.33% - Promotional post of IAS (Say "x")

(b)15% of "x" = Non-SCS officer under special circumstances and if any exigency arises, may be promoted to IAS.

Present Status of IAS in Bihar	Cadre strength	Present Strength	Vacancy	Year of Last batch inducted into IAS U/R 8(1)/8 (2) through Promotion/Selectio
Total Strength Of IAS	342	N.A.	N.A.	-
Direct Recruitment	228	N.A.	N.A.	-
Through Promotion	104	40	64	
Through Promotion to BAS(SCS)	89	26	63	1989(34 th Batch)
Through Selection to Non SCS	15	14	01	1996(39 th Batch)

Bihar Administrative Service Association

North of Income Tax Golamber, Nehru Marg, Patna-800001

(Registration No-663/2003)

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President

Mob. No.- 9334118192



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General Secretary

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Vice President

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9304951990

Ajay Kumar
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Joint Secretary

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7979919465

Gopal Sharan
8210342042

Treasurer

Sanil Kumar Tiwary
9431085120

Joint Treasurer

Mona Jha
9430881025

Memo No

Date

4. This was a temporary provision which has become a regular feature in practice in Bihar. It is very clear that at present, there is neither any special circumstance nor there is any exigency to recruit officers through selection as the state administrative officers of outstanding merit and ability, having even more than 20 years of substantiveservice experienceis available in good numbers for promotion to IAS in Bihar.

5. Further, no standard mechanism has been evolved or prescribed for adjudging the outstanding merit and ability of a Non-State Civil Service Officer for being considered and selected for appointment to the I.A.S. . Nonetheless to say that, it promotes use of discretion in the appointment which is the root cause of all kind of discrimination.

6. It is a known fact that BPSC prepares the list of successful candidates according to highest to lowest marks scored in the competitive examination and in general, the top rankers opt for Bihar Administrative Service. Then how, the Non-SCS Officer, lower in the merit list published by BPSC, becomes officer of extra ordinary and outstanding merit for appointment to IAS post on the basis of selection under rule 8(2) by state of Bihar.

7. It is for your kind information that many states like Haryana, Jharkhand, Uttar Pradesh and other states have discontinued the process of the appointment of Non-SCS officer to IAS by selection in recent years.

8. Bihar Administrative Service Association further would like to draw your kind attention towards the spirit of statutory provision of the IA: (Appointment by Selection) Regulations, 1997 rule 4(1) (iii) which deals with the qualifying minimum length of service for officers to be appointed a IAS through Selection. It requires minimum 8 years of continuous service

Bihar Administrative Service Association

North of Income Tax Golamber, Nehru Marg, Patna-800001

(Registration No-663/2003)

Website: basabihar.com, E-mail Id: infobasa1@gmail.com

Shashank Shekhar Sinha
President

Mob. No.- 9334118192



Anil Kumar
General Secretary

Mob. No.- 9431409463

Vice President

Md. Moezuddin
9304951990

Ajay Kumar
9835737317

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7979919465

Gopal Sharan
8210342042

Treasurer

Sunil Kumar Tiwary
9431085120

Joint Treasurer

Mona Jha
9430881025

Memo No

Date

under the state government in any post which has been **declared equivalent to the post of Deputy Collector** in the State Civil Service. In Bihar, a **resolution** was adopted by Government in 2001 under the said rule which **mandated eight years of service after one promotion of Non-SCS officers** as minimum length of service for eligibility under rule 8(2). However in 2012, this resolution has been modified against the spirit of the aforesaid rule without any rhyme or reason in the garb of compliance of the court order. The present resolution no. 1/c dated 2.4.2.12 /GAD/Bihar (Photo Copy is annexed) is defective in nature ,discriminatory ,biased , unconstitutional ,against the letter and spirit of the original provisions of the said rule. It has been designed to bestow favors on non SCS officers , hence resolution is liable to be quashed ab initio.

9. This leads to another point of serious and grave concern causing hierarchical issues as much **junior Non-SCS officers getting inducted into IAS much earlier in comparison to the SCS officers**. It is pertinent to note that currently SCS officers of 1989 batch have been inducted into IAS cadre whereas at the same year non-SCS officers of 1996 batch got inducted to IAS by selection.

10. It is surprising to note that present number of non-SCS officers promoted to IAS by selection has been surprisingly **saturated**, while **63 posts** of IAS to be filled by promotion from SCS, are lying vacant despite availability of sufficient numbers of SCS/BAS officers.

11. It is also notable that Promotion to IPS post by selection of Non-SPS officers have almost been discontinued in India .

12. Therefore, in light of the above discussion Bihar Administrative Service Association demands for the

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- (a) immediate quashing of the General Administration Department, Bihar circular no. 4900 dated 02-04-2012,
(b) discontinuation of promotion of Non-SCS officer into IAS, as large numbers of BAS/SCS officers are available for promotion to IAS as being done in states like Uttar Pradesh, Haryana and other states of India,
(c) the procedure of induction of SCS officers to IAS by Promotion should be expedited at once and all the vacancies should be filled at the earliest.

Yours faithfully

Sd/-

(Anil Kumar)

Encl:-a/a

Memo No.-/ Date-

CC:- Chief Secretary, Bihar/ Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna for information and necessary action.

Sd/-

(Anil Kumar)

Memo No.-/ Date-

CC:- Chairman, Union Public Service Commission, Dhaulpur House, UPSC Bhawan, New Delhi for information and necessary action.

Sd/-

(Anil Kumar)

Memo No.-/ Date-

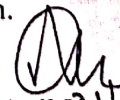
CC:- Secretary, Department of Personnel and Training, Govt. of India, New Delhi for information and necessary action.

Sd/-

(Anil Kumar)

Memo No.- 10/ Date- 21.01.2020

CC:- Secretary General, All India Federation of State/Civil Service Association, New Delhi for information and necessary action.


(Anil Kumar) 21/01/2020

बिहार सरकार
सामान्य प्रशासन विभाग

संकल्प

2.4.12

79

विषय:- भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 के अंतर्गत गैर-राज्य असैनिक सेवा के पदों को उपसमाहर्ता के पद की समकक्षता संबंधी अधिघोषणा के संबंध में।

माननीय कैंट, (पटना पीठ), रांची द्वारा ओ0ए0 संख्या-221/01 तथा माननीय उच्च न्यायालय, पटना द्वारा सी0डब्ल्यू0जे0सी0 संख्या-10616/2010 में पारित न्यायादेश में विषयगत विभागीय संकल्प संख्या-2178 दिनांक 21.04.2001 को निरस्त किये जाने के आलोक में उक्त विभागीय संकल्प को निम्न प्रकार से संशोधित किया जाता है:-

1. उक्त संकल्प की कंडिका-1 के द्वितीय पारा में अंकित-

'बिहार वन सेवा', 'बिहार आरक्षी सेवा' एवं 'राज्य प्रशासनिक सेवा' से भिन्न अन्य राज्य सेवाओं एवं संवर्गों के 10,000-15,200/-रूपए के वेतनमान तथा उच्चतर वेतनमान वाले पदों पर कार्यरत पदाधिकारियों के कर्तव्य तथा दायित्वों को देखते हुए इन वेतनमा के पदों को भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 की धारा-4 के उद्देश्यार्थ राज्य सिविल सेवा के उपसमाहर्ता के समकक्ष घोषित किया जाए। इस गतनमान वाले पदों एवं इससे उच्चतर वेतनमान वाले पदों पर कुल मिलाकर कम-से-कम आठ वर्षों की सेवा होने के उपरान्त ही संबंधित पदाधिकारी इस विनियम के अन्तर्गत भारतीय प्रशासनिक सेवा में चयन द्वारा नियुक्त होने के विचार क्षेत्र में आ सकते हैं।

के स्थान पर

'बिहार वन सेवा', 'बिहार आरक्षी सेवा' एवं 'राज्य प्रशासनिक सेवा' से भिन्न अन्य राज्य सेवाओं एवं संवर्गों के 8,000-13,500/-रूपए का अपुनरीक्षित वेतनमान (पुनरीक्षित वेतनमान पे0 बैंड-3, रू0 15,600-39,100-ग्रेड पे0-रू0 5,400/-) तथा उच्चतर वेतनमान के पदों को भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 की धारा-4 के उद्देश्यार्थ राज्य सिविल सेवा के उपसमाहर्ता के पदों के समकक्ष घोषित किया जाय। इस वेतनमान वाले पदों एवं इससे उच्चतर वेतनमान वाले पदों पर कुल मिलाकर कम-से-कम आठ वर्षों की सेवा होने के उपरान्त ही संबंधित पदाधिकारी इस विनियम के अन्तर्गत भारतीय प्रशासनिक सेवा में चयन द्वारा नियुक्त होने पर विचार क्षेत्र में आ सकते हैं।

2. यह निर्णय तात्कालिक प्रभाव से लागू माना जायेगा।

आदेश:-

80

आदेश है कि सर्व-साधारण की जानकारी के लिए इसे राजकीय गजट में प्रकाशित किया जाय एवं इसकी प्रति सभी संबंधित को उपलब्ध कराया जाय।

बिहार राज्यपाल के आदेश से,

ह०/-

(आनन्द बिहारी प्रसाद)

सरकार के संयुक्त सचिव

ज्ञापांक : 1/सी०-1019/2011 (खंड-1)-सा०प्र०-

/पटना, दिनांक :

प्रतिलिपि-अधीक्षक, ई गजट कोषांग, वित्त विभाग, बिहार, पटना को संकल्प की प्रती एवं तत्संबंधी सी०डी० के साथ राजपत्र के असाधारण अंक में प्रकाशनार्थ तथा इसकी 500 (पांच सौ) मुद्रित प्रतियाँ सामान्य प्रशासन विभाग, बिहार, पटना (प्रशाखा-1) को उपलब्ध कराने हेतु प्रेषित।

ह०/-

सरकार के संयुक्त सचिव

ज्ञापांक : 1/सी०-1019/2011 (खंड-1)-सा०प्र०-4900 /पटना, दिनांक : 2.4.12.

प्रतिलिपि-राज्यपाल के प्रधान सचिव/सरकार के सभी विभाग/सभी विभागाध्यक्ष/विकास आयुक्त/सदस्य, राज्य पर्यटन/सभी प्रमंडलीय आयुक्त/सभी जिला पदाधिकारी/सामान्य प्रशासन विभाग के सभी पदाधिकारियों/प्रशाखाओं को सूचना एवं आवश्यक कार्यवाई हेतु प्रेषित।

सरकार के संयुक्त सचिव

Bihar Administrative Service Association

North of Income Tax Golamber, Nehru Marg, Patna-800001
(Registration No-663/2003)

Website: basabihar.com, E-mail Id: infobasa1@gmail.com

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President

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ice President
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979919465

pal Sharan
10342042

reasurer
Kumar Tiwary
31085120

t Treasurer
fona Jha
30881025

Memo No 46

Date 10.04.2020

To,
The Additional Chief Secretary,
General Administration Department,
Government of Bihar, Patna

Sub: Prayer for not recommending for promotion of Non-SCS officer to IAS by selection under Rule 4 (1) © and 8 (2) of IAS (Recruitment) Rules, 1954 and IAS (Appointment by Selection) Regulations, 1997 as neither special case/special circumstances exist nor is there any exigency to recruit Non-SCS officers as the officers of SCS of outstanding merit and ability, having even more than 20 years of substantive service, are available for promotion in large number.

Ref. : BASA letter no. 10 dated 21.01.2020

Sir,

With reference to our earlier letter, we further draw your kind attention to the captioned subject and submit that Rule 4 (1) of IAS (Recruitment) Rules, 1954 provides for the following methods of recruitment;

- By competitive examination
- By promotion of substantive member of State Civil Service.
- By selection, in the special case from among persons, who hold in a substantive-capacity gazetted posts in connection with the affairs of a State and who are not members of State Civil Service.

(82)

Rule 8 (2) of IAS (Recruitment) Rules, 1954 provides that the Central Government may, in special circumstances and on the recommendations of the State Government concerned and in consultation with the Commission and accordance with State Government and the Commission, from time to time, make recruit to the service any person of outstanding ability and merit, serving in connection with the affairs of the State who is not a member of State Civil Service of that State but who holds a gazetted post in a substantive capacity.

Rule 9 (1) of IAS (Recruitment) Rule, 1954, further stipulates that the number of person recruited under sub-rule (2) of rule 8 shall not at any time exceed 15% of the total number of posts calculated in the manner laid down in sub Rule (3) for filling up by such promotion and selection.

Regulation 4 of IAS (Appointment by Selection) Regulations, 1997 prescribes the condition for considering a person for promotion of IAS (Appointment by Selection) that he

- is of outstanding merit and ability and
- holds a Gazetted post in a substantive capacity and
- has completed not less than eight years of continuous service under the State Government on the 1 day of January of the year in which his case is being considered on any post which has been declared equivalent to the post of Deputy Collector in State Civil Service.

It may kindly be noted that Rule 4 (1) (c) of IAS (Recruitment) Rules, 1954 has emphasized the words 'In special cases' and Rule 8 (2) on the word 'In special circumstances'. Quite amazingly, the State Government, and even the Central Government, continue to fail in their duty to properly examine if the proposals being sent by them for determining the post/s for Non-SCS officers at all fulfil the requirement of the provision of 'In special cases' and 'In special circumstances'. It has been held by the Hon'ble Apex Court in **P.M. Bays Case, (1993, SCC, 319)** while interpreting Rule 4(1) (c) and Rule 8 (2) of IAS (Recruitment) Rules, 1954 that before taking in a decision regarding making an appointment by the selection, the State Government must have evidence on record to

- (i) the existence of Non-SCS officers with eight years of service in a gazetted post under the State Govt. who are outstanding merit and ability and
- (ii) the satisfaction of the State Government that, in the public interest, it is necessary to consider such officers for promotion of IAS.

The special circumstances in a real sense would necessarily mean that the State Government does require Non-SCS officers having specialization in the fields of I.T., Medical Science, Engineering, Management and Agriculture and whose contributions in his department are commendable and acknowledge. This condition precedent has hardly ever been met. Available data indicate that nowadays quite large number candidates from different specialized discipline like Finance, Engineering, Medical Science, Law and Management are recruited both to the SCS and AIS but strangely their specialized knowledge is not being effectively utilized to the public good.

As per information available with the Association, the State Government takes decisions to recommend for filling up crucial posts from the Non-SCS officers brushing aside the requirement to fill up such posts by seasoned SCS officers only to accommodate the Non-SCS officers having no outstanding merit or ability, and without even recording the reasons as to what special case, special circumstances and public interest warrant such choice of Non-SCS officers. Even the Central Government, while accepting such proposals from the State Government, does not satisfy itself as to the condition precedent, of a special case and special circumstances, least to say of public interest, as laid down by the Hon'ble Apex Court in the case already referred to above.

In another judgment delivered by the Hon'ble Apex Court in T. Sham Bhat case, (1994, Supp, SSC, 340), it has been laid down that in IAS (Appointment by Selection) Regulations 1956, only officers of Non-SCS holding substantive gazetted post involving duties comparable in importance and responsibilities to that of the post held by a class-I officer of SCS were eligible for selection. To put it differently, the IAS Recruitment Rules on their very face do not permit Non-SCS officers who held substantive Gazetted posts which were lower in rank than that of the post of Deputy collector in SCS. The

... circular no.4900 dated 02.04.2012 of equivalence issued by Bihar Government is violative of the basic principle of 'Involving duties comparable in importance and responsibilities to that of the post held by class-I officers of SCS' as laid down by the Hon'ble Apex Court. Most surprisingly, GAD has issued the said circular of equivalence declaring posts based on the pay scale and not based on duties attached to the post as laid down by the Apex Court.

The Hon'ble Apex Court has further laid down that Class-I and Class-II posts cannot be pooled together to make them eligible for selection, under the promotion Regulations, only Class-I SCS officers are considered for promotion whereas Bihar government has, with the help of above mentioned circular, declared indirectly some of the Class-II Non-SCS officers equivalent to that of Deputy Collector in SCS while issuing Notification of equivalence. This is against the basic spirit of Selection Regulations and in gross violation of the law laid down in T. Sham Bhat case by the Apex Court.

Given the facts and circumstances as explained hereinabove, it can be reasonably concluded that the State Government in particular and the Central Government in generally have deliberately failed to follow the provisions of Rule 4(1) © and 8 (2) of IAS (Recruitment) Rules, 1954 and IAS (Appointment by Selection Regulations, 1997. Therefore, there appears to be no convincing ground for recommending for promotion of Non-SCS officer to IAS by selection and this unethical policy rather needs a decent burial with.

The following grounds also sufficiently justify the requirement of following the Rule 4(1) (c) and 8 (2) of IAS (Recruitment) Rules, 1954 as neither special case, special circumstances exist nor is there any exigency to recruit Non-SCS officers as the SCS officers of standing merit and ability, having even more than 20 years of substantive service is available for promotion in good number.

Most importantly, when the IAS (recruitment) Rule, 1954 and IAS (Appointment by selection) Regulations, 1956 were framed, the SCS officers in most of the States with the minimum of eight years of service were not available in good number. Therefore, at that point of time, there might have been some justification for drawing Non-SCS officers for promotion to IAS. But as on date there appears to be no reason/justification to invoke this provision

to select Non-SCS officers for IAS, especially when SCS officers of outstanding ability and merit, having service of more than 20 years are available in good number in comparison to the vacancy available under promotion quota.

(ii) Under Rule 8 (2) of the Recruitment Rules, the word 'may' has been prescribed. The Central Government may, in a special circumstance and on the recommendation of the State Government concerned and in consultation with the Commission, and by such regulations as the Central Government may, after consultation with the State Government and the commission, from time to time, make recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State, who is not a member of the State Civil Service of the State (but who holds a gazetted post in substantive capacity). Therefore, the provision is in no way mandatory in nature. In practice, State Government goes for the selection of such Non-SCS officers mechanically taking the Regulation and obviously for some no-transparent and inexplicable reasons and that, too, when the officers of SCS having more than 20 years of service and outstanding merit and ability are available for promotion in good number.

(iii) Under the provision of Rule 9 (1) of IAS (Recruitment) Rules, 1954, the State Government in consultation with Central Government may appoint Non-SCS officers to IAS up to 15% of the promotion posts (33.1/3%), meaning thereby that the promotional avenues of SCS officers are further shrunk to that extent whereas the SCS officers are gripped with the problems of acute stagnation, it is pertinent to mention that in a the State, the only promotional avenue available to SCS officers is a promotion to IAS, whereas the Non-SCS officers are promoted to the post of Additional Director/Commissioner in some cases.

(iv) The State Public Service Commission holds a combined competitive examination for recruitment to the State Civil Service and other Allied Services. The persons of outstanding merit and ability are usually recruited to the State Civil Service, whereas, persons of comparatively lower merit and lesser ability are recruited to other Allied Services of the State. Under the Selection Regulation, the persons of lesser ability and inferior

merit belonging of the Allied Services, as clinching evidence shows in recent times, have managed to get into IAS, much earlier than the SCS officers of outstanding ability and merit. This because of the reason that under Selection Regulations, minimum qualifying period is of eight years, whereas, under Promotion Regulations, though the qualifying period is eight years, SCS officers are considered in the promotion zone in order of seniority and most of the SCS officers of outstanding merit and ability and with more than twenty years of service experience languish in the waiting queue. In Bihar, Non-SCS officers of 1996 batches have been appointed to the IAS under Selection Regulations whereas SCS officers of exceptional, merit and proven efficiency of 1990 batch are waiting for promotion. Such a scenario only speaks of the blatant violation of the principles of equality, fairness and natural justice.

(v) The State Government has failed to declare posts of Non-SCS equivalent to the post of Deputy Collector in SCS in terms of law laid down by Hon'ble Apex Court in T. Sham Bhat case.

(vi) Rule 8 (2) of IAS (Recruitment), 1954 was a stop-gap arrangement but over the years, the State Government has been found to have been invoking this provision as a matter of right to favour only their chosen few, may be his/her relatives or friends. Suffice it say, this provision only breeds nepotism and manifest favouritism to the Non-SCS officers of lesser ability, merit and junior in comparison to SCS officers of outstanding abilities, higher merit, seniority and having rich and varied experiences in administrative and developmental fields.

(vii) This provision also promotes unfair practices. The candidates seeking entry through this channel, approach different authorities at different levels, to get into IAS, while not being officers of outstanding merit and ability but by using invisible power.

(viii) These selection Regulation which is generally called 'back door entry' has been misused and abused bizarrely and blatantly to select the officers proximate to the powers-that-be and or political executives or powerful bureaucrat, which amounts to favouritism. This has resulted in unsavoury criticism and unwarranted litigations in the state.

(ix) In IPS and IFS, only the officers to State Police Service and State Forest Service are considered for promotion to Indian Forest Service and Indian Forest Service respectively.

(x) In context of above view of the matter, we stoutly hold that there is no justification of IAS (Appointment by Regulations) Regulations, 1997, for considering the appointment of SCS officers to IAS. These Regulations read with Rule 4 (3) (b) and Rule 8 (2) of IAS (Recruitment) Rules, 1954 need not to be adhered with. This will, on the one hand, increase the promotional avenue of the SCS officers to IAS, address the problem of stagnation to some extent and on the other hand contribute to the process of cleansing the administration of practices, nepotism and favouritism.

Therefore, Bihar Administrative Service Association urges the Government of Bihar to take immediate affirmative decision in the above context and do full justice to the needs of the time as well as favourably respond to the aspiration to the SCS of Bihar.

Looking forward to your favourable consideration and with warm regards.

Yours Sincerely


10/4/20

(Anil Kumar)